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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

Steele

No. 140.

THE STEAM-TUG VIRGINIA EHRMAN, ETC., FREDERICK EHRMAN ET AL., CLAIMANTS, APPELLANTS,

VS.

JOHN B. CURTIS ET AL., TRADING AS CURTIS, FOBES & CO.

FILED SEPTEMBER 29, 1875.

No. 14[illegible].

PHILA. BAR ASSOCIATION

JOHN B. CURTIS, CHARLES FOBES, AND GEORGE C. FOBES, APPELLANTS,

VS.

THE STEAM-TUG VIRGINIA EHRMAN, ETC., F. EHRMAN ET AL., CLAIMANTS, AND THE SHIP AGNESE, ETC., C. C. ALLESSANDRI ET AL., CLAIMANTS.

FILED OCTOBER 1, 1875.

No. 305.

THE SHIP AGNESE, HER TACKLE, ETC., CERRUTI C. ALLESSANDRI ET AL., CLAIMANTS, APPELLANTS,

VS.

JOHN B. CURTIS, CHARLES FOBES, AND GEORGE C. FOBES.

FILED NOVEMBER 6, 1875.

APPEALS FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

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FILED SEPTEMBER 29, 1875.

No. 147.

JOHN B. CURTIS, CHARLES FOBES, AND GEORGE C. FOBES, APPELLANTS,

VS.

THE STEAM-TUG VIRGINIA EHRMAN, ETC., F. EHRMAN ET AL., CLAIMANTS, AND THE SHIP AGNESE, ETC., C. C. ALLESSANDRI ET AL., CLAIMANTS.

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1 THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a circuit court of the United States for the fourth circuit in and for the Maryland district, begun and held at the city of Baltimore on the first Monday in November, (being the second day of the same month,) in the year of our Lord one thousand eight hundred and seventy four.

Present, the honorable Hugh L. Bond, circuit judge; Archibald Stirling, esquire, attorney; Edward Y. Goldsborough, esquire, marshal.

JAMES W. CHEW, *Clerk.*

Among other were the following proceedings, to wit:

JOHN B. CURTIS, CHARLES FOBES, & GEORGE Fobes, appellants,
vs.
THE SHIP AGNESE & THE STEAM-TUG VIRGINIA Ehrman.

Be it remembered that heretofore, to wit, on the 21st day of December, in the year of our Lord 1874, the parties aforesaid, by their proctors, filed in the circuit court here the transcript of a record from the district court of the United States in and for the district of Maryland in the words and of the tenor following, to wit:

2 THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a district court of the United States in and for the district of Maryland, begun and held at the city of Baltimore on the first Tuesday of September, (being the first day of the same month,) in the year of our Lord one thousand eight hundred and seventy-four.

Present, the honorable William F. Giles, judge Maryland district; Archibald Stirling, esquire, attorney; Edward Y. Goldsborough, esquire, marshal.

JAMES W. CHEW, *Clerk.*

Among other were the following proceedings, to wit:

JOHN B. CURTIS, CHARLES FOBES, & GEORGE Fobes,
against
THE STEAM-TUG VIRGINIA EHRMAN AND THE ship Agnese.
Libel. Filed March 28th, 1874.

Libel.

To the honorable William Fell Giles, judge of the district court of the United States, in and for the district of Maryland:

3 The libel of John B. Curtis, Charles Fobes, and George C. Fobes (trading under the name, firm, and style of Curtis, Fobes & Co.) against the steam-tug Virginia Ehrman and the ship Agnese, their tackle, apparel, furniture, boats, and rigging, and all persons lawfully intervening for their interest in the same, in a cause of collision, civil and maritime, alleges as follows:

First. That your libellants, at and before the time of the collision hereafter in the third article mentioned, were the owners and proprietors of a certain steam-dredging machine called the Charles Fobes, with her engine, apparel, and other furniture; which said dredging-machine was used and employed by the libellants in deepening and widening the Craighill Channel, in the Chesapeake Bay, under the terms and conditions of a certain contract entered into by and between the libellants and the United States, and that the said steam dredging-machine was used and employed in the execution of the contract aforesaid, within the ebb and flow of the tide, and within the admiralty and maritime jurisdiction of this honorable court.

Second. That on the night of the twenty-fifth of March, in the year 1874, the said steam dredging-machine was lying at her proper berth in the Chesapeake Bay, on the western edge of the Craighill Channel,
engaged in her usual and proper employment, having three an-
4 chors all set in their proper places, and in the best and most skill-
ful manner, for the purpose of keeping and holding the said steam dredging-machine in suitable position for the conduct of the work wherein she was being used and where she had a perfect right to be. That the said steam dredging-machine was then and there, and at the time of the happening of the collision hereinafter referred to, sound, staunch, tight, and in every respect well manned, apparrelled, and appointed, having the usual and necessary complement of officers and men, and one of the latter was acting as a lookout at the time of the collision, and the said dredge had two signal-lights burning brightly at said time.

Third. That on the night aforesaid, and on or about ten o'clock of said night, and while the said steam-dredge Charles Fobes was safely moored and anchored as aforesaid, the said steam-tug Virginia Ehrman, whereof Anderson was master, being engaged at the said time in towing the said ship Agnese to the port of Baltimore, and when near the Seven-foot Knoll, in the Chesapeake Bay, the said ship Agnese, with great force and violence, then and there ran into and upon the said steam dredge, and did thereby cause great damage and injury to the said steam-dredge, her hull, engine, and machinery, the said ship Agnese, while being towed as aforesaid, having struck with bow near the centre of the forward
end of the said dredge, and cutting into the said dredge several
5 feet and down below the water's edge, causing the said dredge to
sink a few minutes after said collision, the master and crew barely having time to escape, before she sunk, in a small boat.

Fourth. That the said collision was caused and occasioned by the want of proper care and skill on the part of the masters and crews of both the said steam-tug Virginia Ehrman and the ship Agnese, and not from any fault, omission, or neglect on the part of the said steam-dredge, her master and crew. That the steam-tug Virginia Ehrman was improperly and unskilfully navigated in sailing so close to the said dredge, when there was plenty of deep water on either side of the said dredge into which she could have directed her course, and thus the said steam-tug could have easily run clear of the said dredge, and the said ship Agnese, which the said steam-tug had in tow, would have had ample room also to have run clear of said dredge, and not to have collided with said dredge, as hereinbefore described. The said ship Agnese was negligently and unskilfully navigated, in that before and at the time of the said collision she was improperly steered.

Fifth. That the said steam-dredge Charles Fobes has been damaged to the extent of at least twenty thousand dollars, and that these libel

lants will lose at least twenty thousand dollars more by the loss
6 of her service during the time requisite to repair said machine,
so that these libellants will be damaged to the extent of at least
forty thousand dollars by the collision aforesaid.

Sixth. That the said steam-tug Virginia Ehrman and the said ship Agnese are now lying in the port of Baltimore, and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Sixth. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of this honorable court.

Wherefore the libellants pray that process in due form of law, according to the course of this honorable court, in cases of admiralty and maritime jurisdiction, may issue against the said steam-tug Virginia Ehrman and the said ship Agnese, their tackle, apparel and other furniture, and that all persons having any interest therein may be cited to appear and answer all and singular the matters aforesaid, and that this honorable court would be pleased to decree the payment of the damages aforesaid, and that the said vessels may be condemned and sold to pay the same, and that these libellants may have such other and further relief as in law and justice they may be entitled to receive.

S. H. TAGART.
7 W'M FELL GILES, J'R,
Proctors for Libellants.

Attachment.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

The President of the United States of America to the marshal for the Maryland district, greeting:

We command you that you attach, seize, take and safely keep the steam-tug Virginia Ehrman and the ship Agnese, their tackle, apparel, furniture, boats and rigging, if they be found in your district, to appear before the judge of the district court of the United States of America for the district of Maryland, at the United States court-room in the city of Baltimore, on the first Tuesday of June next, to answer unto libel of John B. Curtis, Charles Fobes, and George C. Fobes, trading under the name, firm, and style of Curtis, Fobes & Co., in a cause of collision, civil and maritime, and how you shall execute this precept you make known to us in our district court for the district aforesaid, and have you then and there this writ.

Witness the honorable William F. Giles, judge of our said district court, this 28th day of March, in the year of our Lord one thousand eight hundred and seventy-four.

8 Issued 28th day of March, 1874.

[SEAL.] JAMES W. CHEW,
Clerk Dist. Ct.

Marshal's return.

MARCH 28TH, 1874.

Attached both vessels, March 31st. Released the tug Virginia Ehrman on stipulation.

E. Y. GOLDSBOROUGH,
U. S. Marshal.

Notice.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

Whereas on the 28th day of March, 1874, John B. Curtis and others filed their libel No. 6 to March term, 1874, in the United States district court for the district of Maryland, against the steam-tug Virginia Ehrman and the ship Agnese, their tackle, &c., in a cause of collision, civil and maritime;

And whereas, by virtue of process in due form of law to me directed, returnable on the first Tuesday in June, 1874, I have seized and taken the said steam-tug Virginia Ehrman and the ship Agnes, &c., and have the same in my custody:

Notice is hereby given, that a district court will be held at the United
States court-room, in the city of Baltimore, on the first Tuesday
9 in June, 1874, for the trial of the said premises, and the owner or
owners, and all persons who may have or claim any interest, are
hereby cited to be and appear at the time and place aforesaid, to show
cause, if any they have, why a final decree should not pass as prayed.

E. Y. GOLDSBOROUGH,
United States Marshal.

Stipulation for steam-tug.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

Be it remembered that on this 30th day of March, in the year of our Lord one thousand eight hundred and seventy-four, before me, Rob't Lyon Rogers, a commissioner appointed by the circuit court of the United States for the fourth circuit, in and for the Maryland district, pursuant to the act of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," appear Lewis Ehrman, corner of Nicholson & Towson streets, Locust Point; Julian H. Lee, No. 49 Lombard street; William B. Johnson, No. 318½ East Pratt street; and Thomas C. Cranmer, No 73 Gist street, all of Baltimore, of the district aforesaid, in their proper persons, and submit themselves to the jurisdiction of the district court of the United States for the district of Maryland, and consent to bind
themselves, and do acknowledge themselves, their heirs, executors,
10 and administrators, to be bound in the sum of sixteen thousand
dollars, for the claimants of the steam-tug Virginia Ehrman,
unto John B. Curtis and Charles Fobes, trading as Curtis, Fobes & Co., to perform and fulfil' the final order and decree of the said district court, and in case of an appeal from such final order and decree of the said district court, then the final order and decree of the circuit court of the United States for the fourth circuit, in and for the Maryland district, and in case of an appeal from such final order and decree of the said circuit court, then the final order and decree of the Supreme Court of the United States, in a certain cause now depending in the said district court, wherein the said John B. Curtis and Charles Fobes, trading as Curtis, Fobes & Co., are libellants, and the claimants of the said steam-tug Virginia Ehrman are respondents, and unless they so do, they severally consent that execution shall issue against them, their heirs, executors, and administrators, their goods, chattels, lands, and tenements, wheresoever found or to be found.

Acknowledged before—
[COM'R SEAL.]

ROB'T LYON ROGERS,
U. S. Commissioner.

Answer of the Agnese.

11 To the honorable William Fell Giles, judge of the district court of the United States for the district of Maryland:

The answer of Cerruti Caldessandro, Sivon Schiaffino, Donati Pietro, Canesso G. Francisca, Cerrut F. Luigi, Cerruti Manillo, Accame Custoforo, Cerruti Cesari, Schiaffino and Cerruti G. Baptista, and the estate of Gioigi P. Sivon, of Genoa, Italy, to the libel and complaint of John B. Curtis, Charles Fobes, and George Fobes, against the ship Agnese, her tackle, &c., alleges—

First. That the said claimants have duly appeared and intervened for their interest herein as owners of the above-named ship Agnese, her tackle, &c.

Second. The claimants have no knowledge as to the allegations in the first article of the libel contained, and therefore leave the libellants to make such proofs thereof as they may be advised.

Third. That the claimants have no knowledge as to the allegations contained in the second article of said libel, and therefore leave the libellants to make such proof thereof as they may be advised.

Fourth. The claimants deny the allegations in the third article of said libel contained, except as is hereinafter admitted.

Fifth. The claimants deny the statements in the fourth paragraph or
article of said libel contained, in so far as it is therein alleged that
12 the said ship Agnese was negligently and unskilfully navigated,
in that she was improperly steered, or in that there was any negligence on the part of the master or crew of said ship which caused or contributed to the alleged damages.

Sixth. The claimants deny that the steam-dredge Charles Fobes, mentioned in the libel, was damaged to the extent of twenty thousand dollars, or that her owners sustained damage by her detention to the extent of twenty thousand dollars, or any like sum, but they allege that said damages are largely overstated.

Seventh. The claimants admit the statements in the sixth article of the libel contained.

Eighth. The claimants deny the statements in the seventh article of the libel contained, except that they admit the jurisdiction of this honorable court.

Ninth. And the claimants, further answering, allege the truth and fact concerning such alleged collision to be as follows, to wit:

That at the time mentioned in the said libel the said ship Agnese, having taken on board a duly-licensed pilot for the port of Baltimore, as by law compelled to, was being towed up the Chesapeake Bay, bound for the port of Baltimore, by the tug Virginia Ehrman, mentioned in
the libel, the said ship being attached to said tug by a hawser of
13 about fifty fathoms long running from the bow of the ship to the
stern of the tug, and following the direction taken by and subject to the movements of said tug, (the master of said tug having undertaken and agreed,) in consideration of a reasonable compensation agreed to be paid on the part of said ship, to safely and securely tow her into the said port of Baltimore.

That the master, officers and crew of said ship were entirely ignorant of the channels leading to said port of Baltimore, and assumed no control or direction over said ship; that the said ship, following closely in the wake of said tug, proceeded up Chesapeake Bay, and when in the vicinity of Seven-Foot Knoll, mentioned in the libel, and when about in the middle of the channel, the channel at said point being wide, as claimants are informed and believe, it was observed by those on said ship that she was passing a dredging-machine, similar to the one mentioned in the libel, and which claimants have since been informed and believe also belonged to the libellants.

That the said tug and ship ran in close proximity to said dredging-machine, there being but a few feet between the starboard side of said tug and ship and dredging-machine as they passed by, the said ship still following closely in the wake and direction of said tug. That at a distance in the rear of said dredging-machine and further up,
14 there lay, about midway of the channel, but a little nearer if anything to the western side of said channel, a second dredging-machine, which had been partially obscured by the first machine, passed as aforesaid, and having no proper or sufficient lights set and burning, or proper lookout on board, as claimants are informed and believe.

That the said tug continuing her said course, would have run directly into said second dredging-machine had she not have starboarded her helm, which she did just sufficiently to clear the said dredging-machine herself, but the said ship continuing her course with her head thrown a little towards said dredging-machine by the starboarding of the wheel of the tug, it was found impossible to prevent the said ship from striking said dredging-machine, but her headway being thus partially stopped, the blow was comparatively light, the stern of the said ship striking the said dredging-machine at about the point mentioned in the libel, and breaking a small hole in the end of the dredging-machine, which caused her to sink shortly after.

Wherefore the claimants pray that said libel may be dismissed with costs, as to said ship Agnese, her tackle, &c.

OE PADEJLI, *Capitano.*

Sworn to before me this 30th day of May, 1874.

15 ISAAC BROOKS, J'R,
United States Commissioner, in and for the District of Maryland.

BEEBE, WILCOX & HOBBS,
MARSHALL & FISHER,
Proctors for Cl'm'ts of Ship Agnese, Advocate.

Answer of the steam-tug.

In admiralty.

To the honorable William F. Giles, judge of the district court of the United States for the district of Maryland:

The answer of Frederick Ehrman, Lewis Ehrman, Thomas C. Cranmer, Stephen J. Fooks, Levin S. Fooks, William A. Johnson, Elizabeth Glashoff, Isaac J. Anderson, and Harry Lee, owners and claimants of the steam-tug Virginia Ehrman, to the libel of John B. Curtis, Charles Fobes, and Geo. C. Fobes, against said steam-tug, alleges and articulately propounds as follows, to wit:

First. These respondents know nothing about the matters alleged in the first article of said libel, as to the ownership of the steam-dredging machine called the Charles Fobes, nor do they know whether, at
16 the time of the collision in said libel alleged, the said dredging-machine was used and employed by the libellants in deepening and widening the Craighill Channel in the Chesapeake Bay, under the

terms and conditions of a contract between the libellants and the United States, nor have they anything to do with said contract, if such there was. But these respondents deny that said machine was damaged, or that the libellants suffered loss by the said collision, to the extent in said libel alleged, or to any great extent.

Second. These respondents deny that said machine was lying in a proper place at the time of said collision. They allege that the facts were as hereinafter stated, and they deny all of the allegations of said libel inconsistent therewith, and all of those not hereinbefore or hereinafter admitted. On the 25th of March, 1874, the said steam-tug Virginia Ehrman, which was engaged in the business of towing upon the waters of the Chesapeake Bay, and its tributaries, was engaged to tow the said ship Agnese from a part of the bay opposite to Annapolis to the city of Baltimore; that those in charge of said tug directed those in charge of said ship to take in her mainsail and foresail and to pass the hawser over her starboard bow, which was accordingly done, and
the hawser, which was about fifty fathoms long, was made fast to
17 the stern of said steam-tug. The pilot, who was on board of and
in charge of said ship, then asked the captain of the tug if they were going through the Craighill Channel, and was informed that they were.

That when about two or three miles from the mouth of said channel, and about twenty miles from Baltimore, between nine and ten o'clock p. m., the night being clear and moonlight, with a stiff wind from the south and directly aft of said ship, which had her topsails set and drawing and was under a headway of eight or ten knots an hour, those in charge of said tug discovered three dredging-machines lying in a row midway of said channel and about two hundred yards apart. When said tug got within a proper distance of the first one of said machines she whistled to notify those on board of her, and was answered by two whistles from said machine, which was a direction to the said tug to pass to the westward. That said tug did accordingly pass about fifty feet to the westward of said first two machines, and as she passed the second machine she whistled to call the attention of those on board the ship to the tug, so that they might use proper care in passing also.

That said ship also passed to the westward of said first machine, but
instead of following the course indicated by said tug, and which
18 the said tug had herself taken and said ship ought to and might
easily have taken, the said ship negligently and improperly deviated to the eastward and ran into the second of said machines, causing her to sink in a short time thereafter.

These respondents further aver that the said tug was properly and prudently managed under the circumstances, and that the said collision was in no way caused by her act or default, but in the first place by the fact that the said dredging-machines were anchored in the middle of said channel and in the range of the lights intended for the guidance of ships using the same, instead of being anchored, as they could and should have been, on or near the edge of the channel, which is only about three hundred feet wide at that part.

And they allege that said collision was caused, in the second place, by the gross mismanagement of the said ship Agnese, due, as these respondents are informed and believe, to the drunken'ess, incompetency, and negligence of the pilot in charge of her.

These respondents further allege that said ship, having a fair and free wind, with her topsails drawing and under full headway, was not dependent upon said tug for either her motion or the course she took;

19 but, on the contrary, if said ship had taken the course indicated to her, and which the said tug herself followed, and which said ship should have taken and was bound to take, even if no such notice or warning had been given, the collision would not have occurred.

Third. That all and singular the premises are true.

Wherefore the respondents pray that said libel be dismissed with costs.

WALLIS & THOMAS,
Proctors for Resp'ts.
ISAAC J. ANDERSON.

Sworn to before me this 8th day June, A. D. 1874.

JA'S W. CHEW,
Clerk Dis't C't & U. S. Commiss'r Ex-officio.

1st decree.

In the district court of the United States, in and for the district of Maryland. In admiralty.

JOHN B. CURTIS & OTHERS
vs.
THE STEAM-TUG VIRGINIA EHRMAN, Frederick Ehrman & others, claimants; and the ship Agnese, Cerruti Caldessandro & others, claimants.

This cause having been heard in the pleadings and proofs in
20 the cause, and having been argued and submitted by the proctors of the respective parties, and due deliberation being had, it is now ordered, adjudged and decreed that the libel filed in this cause be and the same is hereby dismissed as against the steam-tug Virginia Ehrman, whereof Frederick Ehrman and others are claimants, with costs to be taxed against the libellants.

And it is further ordered, adjudged and decreed that the libellants recover against the ship "Agnese," whereof Cerruti Caldessandro and others are claimants, their demands as set forth in the libel, to such amount as this court may hereafter order and adjudge, and that it be referred to Robert Lyon Rogers, esq., United States commissioner, who, as auditor, will state an account from the evidence which either party may produce before him, showing what it cost the libellants to raise the dredge and to repair the damages or injury to the same, caused by the collision, and also the loss which libellants may have suffered from want of the use of the said dredge during the time necessarily occupied in raising and repairing the same.

And the auditor will also hear any evidence that libellants may offer as to the deterioration in the value of the dredge caused by the collision, and he will report to this court on or before the 15th of July next.

WILLIAM F. GILES.

In the district court of the United States for the district of Maryland. In admiralty.

JOHN B. CURTIS ET ALS.
vs.
THE STEAM-TUG VIRGINIA, EHRMAN, FREDERICK Ehrman, & others, claimants; and the ship Agnese, Cerruti Caldessandro & others, claimants.

To the Hon. the district court of the United States, for the district of Maryland:

I, Robert Lyon Rogers, United States commissioner, and auditor, to whom was referred the said cause under the decree passed thereon, respectfully report to the court that in accordance with a notice previously given to the proctors of the respective parties to said cause, I met at my office in the city of Baltimore on the 1st day of July, 1874, and then and thereafter from time to time proceeded, in the presence of S. H. Tagart and W'm Fell Giles, j'r, esquires, proctors for the libellants, and Charles Marshall, esq., proctor for the respondents, to hear testimony therein, which said hearing, because of unavoidable exigencies, was continued to and concluded on the 7th day of September inst., with the understanding among the proctors of the respective parties that the 22 time limited in the decree for the statement of the report and account should be considered as having been extended by the court, so far as their agreement and consent could effect the same.

I further report that so much of the evidence produced before me as it was deemed desirable by the said proctors, or either of them, should be reduced to writing, was reduced to writing, and is herewith returned marked "Exhibit R. L. R.;" that upon said evidence, and upon such facts as seemed to me to be established by competent proof, this report and the conclusions reached in it as hereinafter set forth are based.

2nd. As commissioner and auditor aforesaid, I report to the court that the dredge "C. Fobes" mentioned in the proceedings in this cause appears, from the evidence before me, to have been sunk by the collision, which is the subject-matter of said proceedings, on the 26th day of March, 1874; that on the next day, the 27th of March, the libellants commenced operations with a view to raise her, and that they succeeded in placing her safely upon the ways at the ship-yard of B. S. Wellener, a ship-builder in the city of Baltimore, on the 17th day of April thereafter; that immediately the work of repairing her was commenced, and that the repairs rendered necessary because of her injuries incident to the collision were completed on the 3d day of June, 1874; that 23 thus, therefore, these libellants were engaged twenty-two days in about the raising of the said dredge, to wit, from the 27th of March to the 17th day of April, inclusive of both days; and that they were deprived of the use of her fifty-nine working days, to wit, from the 26th of March, the day she sank, (inclusive,) to the 3rd day of June, there being in point of fact ten Sundays within this period.

3rd. As commissioner and auditor aforesaid, I report to the court, that the evidence seems to me to establish satisfactorily, if not conclusively, that these libellants availed themselves of such means and appliances as were accessible to them in the port of Baltimore, in and about the rais-

ing and repairing of the said dredge, and that the raising and repairing were, in fact, accomplished with reasonable skill, diligence and economy; that the entire work and labor from its commencement to its successful completion received the continuous and intelligent supervision of George C. Fobes, one of the libellants and a witness before me, whose whole bearing in the premises has impressed me with the conviction that the result, which seems to me to have been attained, is attributable to his purpose to be right as well as to seem right in the matter in hand; that the said Fobes has laid before me itemized bills for work and labor
24 done and materials furnished in and about the raising of the
dredge, and the repairing of the damage to her because of the collision, the accuracy and reasonableness of which have been satisfactorily proven, and which are herewith returned marked from "A 1" to "A 39," inclusive, from which, together with certain items as to which specific proof as hereinafter noted was adduced, it appears that these libellants have paid out and expended monies under this head as follows:

	A	1.	To Jos. Williams, rigger	516	37
	"	2.	" R. A. Scott, wrecker	652	50
	"	3.	" Turner & Day, shears	10	00
	"	4.	" Levin Jones, chains	83	61
	"	5.	" W. H. Stark, board for hands	205	00
	"	6.	" John Ely, use of screws	75	00
	"	7.	" E. G. Tyler, use of timber	215	24
	"	8.	" W. Bollman, diver	100	00
	"	9.	" B. S. Wellener, ship carpenter	1,144	57
	"	10.	" J. T. Simpson, joiner	856	71
	"	11.	" E. J. Codd & Co., machinists	708	92
	"	12.	" Jas. A. Whitney & Co., iron & bolts	173	22
	"	13.	" Holmes & Co., packing, &c	101	06
	"	14.	" Loud, Clavidge & Co., rope, &c	252	29
	"	15.	" H. Steffens, paints & oils	166	73
	"	16.	" Lamden & Waddy, canvass	128	61
	"	17.	" The Portland Co., castings, old deducted	397	43
	"	18.	" I. S. Beachem & Bro., timber	16	08
25	"	19.	C. Dugan & Co., felting	80	64
	"	20.	Hergesheimer & Bro., blacksmith	148	96
	"	21.	P. Sherwood, do.	65	66
	"	22.	Tug-boat Bullock	18	00
	"	23.	J. Wells' Sons, supplies, &c.	25	98
	"	24.	Steamer Blackstone, freight on castings	12	96
	"	25.	Telegram, despacth proper.	0	65
	"	26.	Henry Boss, tinsmith	14	19
	"	27.	Bibb & Co., stove	44	75
	"	28.	R. H. Diggs & Son, cement	4	10
	"	29.	P. H. Brown, water-casks	19	42
	"	30.	A. J. Hubbard, handspikes, &c.	24	20
	"	31.	D. B. Smulls' Sons, lost stores	77	05
	"	32.	Tho's H. Rice & Sons, blocks & shears	35	25
	"	33.	John Brown & Son, hose & coupling	83	00
	"	34.	Tho's H. Hanson, mattrass, &c	33	50
	"	35.	H. Steffens, provisions lost	29	40
	"	36.	Geo. Mitchell, clothing lost	35	50
	"	37.	John W. Williams, do.	29	40
	"	38.	Warren Locke, do.	53	50
	"	39.	Geo. Lord, do.	39	00
			To amount forward	6,678	45

To amount paid for 2 poles & spud, and fitting the same, as per proof before the auditor..............................	140 00
26 To the use of two scows in and about the raising of the dredge, fro' the 27th of March, 1874, to 17th April, 1874, inclusive, 22 days, at $30 per day, as per proof do	660 00
To use of steam-tug for said 22 d'ys, at $75 per day, as per do..	1,650 00
	$9,128 45

Thus making the sum of nine thousand one hundred and twenty-eight dollars and forty-five cents, including a per-diem allowance in the two last items for the use of scows and the steam-tug, which are appended to the items treated as expenditures for convenience in adjusting the figures in this report.

It appears in evidence that these scows and the steam-tug M. B. Curtis are the property of the libellants, and that they were used by them for wrecking purposes in the raising of this dredge, and the evidence seems to me to establish that such appliances, if not indispensable for such purposes, are almost invariable used, and being properly a means to the end in raising the dredge, the evidence conclusively establishing that the sum allowed for their use is a moderate one.

From the time the work commenced in and about the raising of this dredge up to the time that such repairs on her as are herein estimated and allowed were completed, that is to say, from the 27th of March, 1874, (inclusive,) to the 3rd of June thereafter, the hands ordinarily employed in working her when engaged in her legitimate service
27 were retained in the employ of these libellants, as appears by the evidence.

It further appears that during the twenty-two days in which she was being raised these hands were at work night and day in that service, and that from the time she went upon the ways, that is, from the 17th day of April to the time of the completion of the repairs incident to the collision, the 3rd day of June thereafter, they were engaged each day, Sundays included; in other words, estimating their time and pay as though they had been engaged on the dredge when she was at work—and certainly this seems to me to be not unreasonable—these libellants would be entitled to be allowed for them in and about this particular service for two months and seven days.

To get at this aggregate sum it becomes necessary to classify these hands and fix the pay per month of each, and in proceeding to do so, it is proper for me to remark, in advance, with a view to explain what would otherwise seem to be irreconcilable with the recorded testimony of the witness Fobes in his cross-examination at page 5, that in the progress of the case before me, the learned proctor for the respondents requested the witness Fobes to make an estimate from such data as his books and papers would supply of the loss sustained by these libellants for the time they were deprived of the use of this dredge, which
28 was accordingly done, and when the same was produced I asked the witness to give me a list of the hands, with the pay of each, who were retained in the service of the libellants in the raising of the dredge. He did so, having then at hand*s* his books and papers, whereas, when cross-examined, as above stated, they were not before him, and the subject-matter of the cross-examination was not such as to require the accuracy of detail which the subsequent direct *e*nquiry demanded.

He further testified at this time, as is heretofore asserted to be the evidence, that all the hands employed when the dredge was at work were retained, and at the same pay, except that the captain, when at work, received, in addition to his pay, a quarter of a cent for each cubic yard excavated, and that each hand, when at work, was allowed and paid fifteen dollars per month for his board, in addition to his wages. Classified upon this evidence, the hands and their pay (excluding the extra allowance to the captain and the board-money of each man, the board of the men having been heretofore allowed to the libellants) will stand as follows:

One captain, per month	78 00
One mate, per month	50 00
Two scow-men, $45 each per month	90 00
Two deck-hands, $40 each " "	80 00
One catch-tender, per month	25 00
One watchman " "	45 00
One engineer, per month	70 00
29 One steward	45 00
	$483 00
Being four hundred and eighty-three dollars per month wages for hands, which, for two months and seven days, would make the item of hand's wages to be allowed the libellants one thousand and seventy-eight dollars and seventy cents	1,078 70
To which add nine thousand one hundred and twenty-eight dollars and forty-five cents	9,128 45
	$10,207 15

and the result is ten thousand two hundred and seven dollars and fifteen cents, which, as commissioner and auditor aforesaid, I report to the court to be "what it cost the libellants to raise the dredge and to repair the damages or injury to the same caused by the collision," from the evidence produced before me, in obedience to the decree passed in said cause.

LOSS TO THE LIBELLANTS.

4th. As commissioner and auditor aforesaid, I respectfully report to the court that in proceeding to execute the duty devolved upon me by so much of the decree as directs me to state an account showing the loss of the libellants "from the want of the use of the dredge during the time necessarily occupied in raising and repairing the same," this time being,
as hereinbefore reported, fifty-nine working days, it becomes neces-
30 sary briefly to state the evidence produced before me by the libel-
lants which they conceived pertinent to this branch of the enquiry,
that the court may pass intelligently upon the theory I have adopted, as well as upon such points of law as may be involved, and as have been urged by the proctors of the respective parties before me.

It appears from the evidence that, at the time this collision occurred, the libellants were engaged in excavating a ship-channel in the Patapsco River, near the port of Baltimore, known as the Craighill Channel, under contract with the Government of the United States, for which they were to receive twenty-two cents per cubic yard for each excavated; that they had been engaged under contracts with the Governments clearing channels leading to the port of Baltimore from about the 1st of July, 1872; that from about the month of July, 1873, these libellants had in use in the execution of their said contracts three steam-dredges, the General

Thom, the Col. Craighill, and the one in question in this case, the C. Fobes, the latter having been built and equipped specially for the work and put in use thereon about the middle of July, 1873.

It further appears in evidence before me that during the time these libellants were deprived of the use of this dredge C. Fobes because of this collision, they had contracts for work abundantly ample to employ all their dredges; that in point of fact their contract in the Craighill Channel was being executed during said time by two of their
31 dredges, the Thom and the Craighill, and that the same was completed by said dredges on or about the 16th of June, 1874; that a contract was subsisting during said time with the Boston Wharf and Warehouse Company to do work for it at Norfolk, Virginia, for which they were to be paid twenty-five cents per cubic yard, upon which they were to commence operations on the 1st of April, 1874; that during said time they had subsisting contracts with the U. States to do work in the Penobscot River, at Bangor, Maine, for which they were to receive seventy-five cents per cubic yard; that the execution and performance of all said contracts were hindered and delayed because of their being deprived of the use of this dredge, the C. Fobes.

The amount of work done, the price paid for it, and the expenses attending it, taken from the books and papers of these libellants, in their account with this dredge C. Fobes during the months of August, September, October, November, and December of the year 1873, have been produced in evidence before me. It has further been satisfactorily established to me that the working days of this dredge, assuming her to have been at work during the fifty-nine days in question, to wit, from the 26th of March to the 3rd of June of this year, would equal in number, if not exceed, the average working days in the period
32 from August to December, 1873, inclusive, and that the average expenses would be about the same. Assuming then, as I think the facts abundantly warrant, that this dredge would have earned at least as much, had she been employed in the execution of either of the contracts of these libellants before referred to, during these fifty-nine days, as she might have earned during the same time in the waters of the Patapsco, and that she would have earned during this time as much per day as she did in fact earn from August to December, 1873, in said waters, I have assume her nett earnings per day for said period as fairly measuring the loss these libellants incurred per day in being deprived of her use during the fifty-nine days.

Proceeding then to the details of the account of this dredge C. Fobes, as offered in evidence, it appears that she did work, and that the libellants were paid for it as follows:

1873.					
August,	51,698	cubic	y'ds,	22 cts	11,373 56
Sept.,	40,472	"	"	"	8,903 84
Oct.,	42,306	"	"	"	9,307 32
Nov.,	49,840	"	"	"	10,964 80
Dec.,	40,246	"	"	"	8,854 12
Gross earnings 5 mo's,					$49,403 64

The expenses of said dredge during this period were as follows:

33 Coal:

August	293 05
Sept	339 62

Oct	410 87	
Nov	411 27	
Dec	431 06	
		$1,885 87

Incidental expenses, such as oil, repairs of machinery, &c.:

August	449 35	
Sept	363 79	
Oct	6 21	
Nov	93 99	
Dec	432 20	
		1,345 54

Expenses in pay of hands, viz:

Captain:

August wages	78 00	
" com's ¼ cent p'r y'd	129 24	
Sept. wages	78 00	
" com's ¼ cent do.	101 18	
Oct. wages	78 00	
" com's ¼ cent do.	105 76	
Nov. wages	78 00	
" com's ¼ cent do.	124 60	
Dec. wages	78 00	
" com's ¼ cent do.	100 62	
		951 40
One mate, 5 mo's, $65 per mo., (board added).		325 00
Two scow-men, 5 mo's, at $60 each p'r mo., " " .		600 00
34 Two deck-hands, 5 mo's, at $55 each per mo., " .		550 00
One catch-tender, 5 mo's, at $40 per mo., " .		200 00
One watchman, 5 mo's, at $60 per mo., " .		300 00
One engineer, 5 mo's, at $85 per mo., " .		425 00
One steward, 5 mo's, at $60 per mo., " .		300 00
Cost of towing mud excavated as per am't paid for said service by libellants, for the 5 mo's, at $1,265 per mo		6,325 00
Add to expenses the amount allowed in this report to libellants for use of scows, 22 days, in raising the dredge		660 00
Total expenses for 5 mo's		$13,867 81

Bring forward gross earnings for 5 mo's	$49,403 64
Deduct the total expenses for 5 mo's	13,867 81
Result is nett earnings for 5 mo's	$35,535 83

If then this dredge earned for the five months $35,535.83, the solution of a simple problem will result in showing that her nett earnings for fifty-nine days would have been thirteen thousand nine hundred and seventy-seven dollars and forty-two cents, ($13,977.42,) and upon the theory that I have assumed, that her nett earnings for the fifty-nine days of this period fairly measure the loss these libellants have sustained in being deprived of her use for the fifty-nine working days
35 "necessarily occupied by them in raising and repairing" her,
I report to the court that the loss sustained by them on this ac-

count is thirteen thousand nine hundred and seventy-seven dollars and forty-two cents, ($13,977.42.)

I may add in this connection, as tending to confirm the intimation heretofore made in this report, that this sum is the least at which the evidence in the cause warrants the loss of these libellants to be estimated; that upon the cross-examination of the witness Fobes, the respondent sought to prove, and did prove, that it would require about two days to remove the dredges to Norfolk and put them at work upon the contract there, and about ten days to do the like on the contract in Maine; but when the details of the expenses incident thereto, as far as they were developed, were contrasted with the largely-increased earnings insured by the contracts both at Norfolk and in Maine, the enquiry was abandoned and the evidence was left upon this branch of the enquiry as it has been herein set forth.

Adding, then, to the said amount of thirteen thousand nine hundred and seventy-seven dollars and forty-two cents, ($13,977.42,) the amount above reported as the loss of these libellants, the sum of ten thousand two hundred and seven dollars and fifteen cents, ($10,207.15,) the amount hereinbefore reported as the cost to the libellants to raise the
36 dredge and repair the damages caused by the collision, and I have
to report to the court, and do report, as commissioner and auditor under the decree in said cause, that there is due and owing to the libellants in said cause from the respondents therein, Cerrate Caldessandro and others, the claimants of the ship Agnese, twenty-four thousand one hundred and eighty-four dollars and fifty-seven cents, ($24,184.57.)

In conclusion, I have to report to the court that, in obedience to the decree in said cause, I have heard such evidence as the libellants have offered "as to the deterioration in the value of the dredge caused by the collision," and have recorded the same in the exhibit herewith returned, marked "R. L. R."

All of which is respectfully submitted.

ROB'T LYON ROGERS,
U. S. Commissioner, & Auditor in said Cause.

BALTIMORE, *September 29th*, 1874.

EXHIBIT R. L. R.

JOHN B. CURTIS ET ALS.
vs.
THE TUG VIRGINIA EHRMAN & SHIP AGNESE.

37 Met this 1 July, 1874.

Whereupon—

Joseph W. Williams, for libellants, sworn for libellants.

Is master-rigger; worked on raising of the steam dredging-machine, Charles Fobes.

Produces bill A No. 1.

Cross-examined:

Was not present when work was done; was at the dredge once; highest number of men there was ten, less at other times. Young man I have kept the books; I knew all about the time. I gave the time; that is, myself and the young man. I always tell him what time to charge. I tell him so many men have made so many days; can't recollect number of days engaged in the work. I suppose ten days.

The screws mentioned are for raising the vessel, and were there seventeen days. Before I got through my men made engagement with Fobes to raise the vessel. I don't charge for this lump job. This is a matter with Fobes and the men making the contract.

I had my men there for about ten days, and after this they made the contract with Fobes. I got the whole of the money in the bill and paid the men out of it. I allowed no commissions to any one. I had hired out these screws before, and then I got twenty dollars a day for four. In this case there were six screws and blocking.

38 I think the amount charged for raising the dredge, $4,157.72, is a fair price for raising. I would not have raised her for less than $5,000.

I was a seaman first and afterwards a rigger for twenty years.

Richard Arscott, sworn for libellants:

I am a rigger, and been one thirty years. I was engaged in raising the dredge, & was first sent there by Williams, and afterwards I took contract to raise her from Fobes.

The first 4 or five days we were there we were under Williams, and then we took contract, and I took charge of it. Produces bill marked "A No. 2."

The $52.50 extra work is for working day and night, and this amount I charged *this* for my services as foreman of the men employed by Williams and worked also. The reason I received this pay from Fobes directly is because I had some difficulty with Williams, and I wished to get the money directly from Fobes. This charge of six hundred dollars is a fair one. I do believe that any one could have done it for less.

We worked every moment that was available.

Cross-examined:

The six hundred dollars was to raise her and bring her to Baltimore to the wharf.

39 I did not pay for the screws. Fobes paid for them. I had some of Fobes' men employed. He was to render me all assistance he could.

We commenced work on the 28th March, 1874, and we got to the wharf on the 18th or 19th of April. I received fifteen dollars from Williams. I had from 12 to 14 men of my own in my employ.

Of the $52.50 there was fifteen dollars which was due me from Williams and was paid by Williams. There would have been due me from Williams $52.50, but he paid me fifteen dollars on account.

A No. 4 admitted as to amount. In this bill there is $14.96 of old chain not accounted for; so much got, and this is the difference showing amount still in Fobes' hands.

William H. Stark, for libellants:

Went to Levin Jones' to get chain to raise the dredge, and the chain got was used for raising the dredge, and I returned the old chain. In using the chain they are under the necessity of knocking out a bolt in every fleet of chain, and a fleet of chain is six inches. This is done in the old chain.

I boarded all the men, both Fobes', Williams', and Arscott's men. We kept them there all the time.

Produces bill A 5, as board-bill.

This includes the board of all men, including Fobes, and all except

my own crew. I think the whole number of men were twenty-
40 four. I boarded them all the time they were raising the dredge.
There were four hundred and ten days' board, being seventeen
days & ½ board for one man. I kept no account of the days myself.
Some days Arscott would have nine men, some days sixteen, just as he
could get them on the wharf.

We went down on the 27th of March, and we brought her to Baltimore on the 17th or 18th of April. We brought her to Baltimore. We commenced work on the 28th of March.

John B. Ely, for libellants:

The hire of screws as a regular price is two dollars a day, but I did the work for M'r Fobes for less because he is a friend of mine. These screws are what are called large-sized screws. The length of the large screws are about 8 feet, and about 272 inches in diameter. The regular price for them is two dollars a day.

George C. Fobes, libellant:

The tug used was our tug, for raising the dredge. She was so employed 22 days. We have never chartered the tug for less than $125 a day, and we have charged $75.

We also furnished two scows, one on each side. We have let
41 the scows for thirty dollars a day each, and we have charged
thirty dollars for the two.

The bill for the tugs and scows is $2,310. This is what we charged.

Cross-examined:

The tug did no other work than this of raising during these 22 days. We had 6 men on the tug, including everybody. The captain, $80 per month; the engineer, the same; mate, $40; and firemen, one, $45; and deck hand, one, $30; steward, $35. We boarded them and allowed the captain 50c. a day for board. The tug would average 100 tons o' coal, at $6 per ton, a month.

Oil and water would amount to some one hundred dollars a month; wear and *tare* I can't estimate. We had two men, one for each scow, at forty-five dollars a month wages and 50 c'ts a day board. We used the scows in connection with the dredge when she was at work. In charging for the use of the dredge the scows are included as a necessary appurtenance to her. The whole cost of this dredge and her machinery was forty-three thousand dollars, and her hull, independent of machinery, was about twenty-two thousand dollars.

John T. Wellener, sworn for libellants:

42 I am a ship-builder, and am agent for my father, B. S. Wellener.

Shown bill A No. 9; says that it is bill of the repairs on the dredge Charles Fobes.

She came to our place 17 April, 1874, in the morning, and the first item is for blocking the ways to receive her, on 15 of April. The charges and items in this bill are fair and correct and reasonble, & relate exclusively to repairing the damage aforesaid. The bill has been paid.

Cross-examined:

I examined her after she came on the ways. She was struck on the starboard bow and one block was knocked out. The vessel went into her deck at top about five feet and at the bottom about six feet and a half, or rather six feet and a half along the slope of the side. Work for repairing the damage to the dredge was finished on the 30th of May.

At 12 o'clock, 21st April, we had the dredge in condition to put the machine off the ways, and on the 24th of April, at 12 o'clock, we kept her on the ways to do the sheathing on her.

We finished working on her on the 30th day of May, and three days of this time was devoted to sheathing her. We were not at work on her repairing damage, but there were other workmen on her at this time; that is, the three days.

43 There was other work to be done on her after we finished, which was the result of damage done her. This bill was paid me, and no commissions of any sort are in it.

Edward J. Codd, sworn for libellants:

I knew the condition of this machinery on the dredge before the collision. I put the machinery in thorough order myself during the winter months when they could not work.

There was a deterioration of the machinery because of the sinking of the dredge. First, I think the bright work of the machinery would require to be put through the lathes to make it look as it did before; next, the sinking of the timbers to which the machinery is bolted or fastened would and did sodden them with water; the consequence resulting from this would be that, as they dried by the action of heat and air, it would tend to cause the machinery to be thrown out of line, and this would render it necessary to reline the machinery.

As a result of my examination and calculation, the deterioration of the machinery would be about eight per cent. on the cost of the machinery when new, and I approximate the cost of the machinery as best I could. I mean to be understood as saying that this machinery, immediately before the sinking of the dredge, was about as good as new. I made the valuation of the machinery at 15 or 16 thousand dollars—I think 44 about 15,300—and the valuation was made after the vessel was raised and brought to the yard, and the estimate related to the time previous or immediately previous to the sinking of the vessel.

Cross-examined:

The worth of machinery would be less immediately after being put in a vessel; that is to say, it would sell for less, and if it had been used of course it would still sell for less; the depreciation would be slight in the latter case. In the first case the cost of putting in the machinery would be lost of course.

Here adjourned to Thursday, 2nd day of July, A. D. 1874, at 9 o'clock a. m.

Thursday, 1st July, met and proceeded as follows:

Holmes' bill A No. 13 is reserved that proof may be supplied showing that the articles enumerated, or the bulk of them, were on board of dredge when she sunk.

William H. Stark recalled and cross examined:

There were no other expenses in running the tug than those testified to, as far as I know, than wear and *tare*, and I think I would estimate this at fifty dollars per month.

Here adjourned to Friday, 3 July, 1874, and proceeded as follows:

George C. Fobes recalled by libellants:

45 We entered into a contract with D. H. Chamberlain, agent and president of the Boston Wharf Co., to commence work at Norfolk

on the 1st of April, to dredge out their docks and channel leading to it. This contract was verbal. We were to get 25 cents per cubic yard. I had applied to M'r Hutton, the 1st assistant of Col. Craighill, engineer in charge of work at Baltimore, to withdraw one of the dredges from the Baltimore work to get her to Norfolk 1st of April, and he granted it. There was dredging at Norfolk of 30,000 yards, more or less, as stated by Chamberlain, but the work was to be effectually done, whether more or less. When we encounter obstacles which prevent the use of our dredges, such, for instance, sunken cribs or piers, or blasting, we demand and have been allowed demurrage for our dredges at the rate of $250 per day. We were allowed this demurrage by the Franklin Wharf Co. at Portland, Maine. We there encountered an old wall, and also the Central Wharf Co., at the same place.

Here adjourned to Tuesday, 7 July, 1874, at 9 a. m., and meeting pursuant to adjournment, and proceeded as follows:

George C. Fobes, for libellants:

The dredge Craighill after completing the work in the Craighill Channel, which was about 18th or 20th of April—the 20th, I think—she came up to Willemer's ship-yard, and has been there ever since. She was
undergoing repairs there for three or four weeks of the time, con-
46 sequent upon disorder in doing work upon the channel. She was
not sent to Norfolk because she was not sheathed, and we sent the Thom there in her place. The Fobes has been ready for work since about the 1st day of July. The Fobes was in no condition to go to Norfolk. The Craighill has not been sheathed yet. The Craighill could not be sent to Norfolk, because, not being sheathed, she would have suffered injury from the worms infesting the waters there, but she would have been sent to work, and could have been sent to work, in any other waters here or north of this place. Previous to this accident we had made arrangements, as soon as work on the channel was completed, to send one of the dredges to Norfolk, the Thom and one of the others, and probably the Fobes, back to Maine to complete the contract there; and the Craighill was to remain here in anticipation of work we expected to get from the city council of Baltimore, for which reasonable inducements was held out, but we did not get the work and have not got it yet.

We did not send the Craighill to Maine because our competitors for the work of this city, Morris & Co., and we deemed it necessary to have a machine on the ground, so as to show or be able to say that we were ready to do the work, and we were induced to make every exertion to get the job here because there was a good deal to be done and it was
worth some sacrifice to get it.
47 We voluntarily detained the Craighill here to get the Balti-
more job, though we might have sent her to Maine. We did not anticipate the loss of the Maine job by so doing, for we were assured that we could get an extension of time there if necessary.

We did not expect to get enough work here to detain here both the Craighill and the Fobes. We expected to get work enough for one of the dredges to detain her at work till the 1st of July, when the Government contracts are given out. We were looking to advertisements for Government work after the first of July. We expected to bid on them. What I mean is that the advertisements are not out until the 1st of July.

The Fobes was some fourteen or fifteen days in the hands of mechanics after the repairs consequent upon the collision were completed.

The dredges Fobes and Craighill are of about the same capacity. The Thom is of less capacity than either; her machinery is about the same, but buckets are smaller. The crew is the same, and the expense of running the same. She would probably do a thousand cubic yards work less than either in work.

If either of the dredges had been sent to Maine when we contemplated sending them, it would have taken from ten to fifteen days to get them on the work there. We still have the Maine contract.

48 Here adjourned to Thursday, 9 July, at 9 a. m., and having met pursuant to adjournment, proceeded as follows:

George C. Fobes recalled:

We had employment for our whole fleet of vessels during the time the Fobes was undergoing repairs, both in Maine and Norfolk.

Thomas Trimble, sworn for libellants:

I am of the firm of Morris and Trimble, mill-stone manufacturers, for some forty years, and at present I am agent for the Morris & Co. Dredging Co. We own some ten dredging-machines. I know the libellants in this case. They and ourselves are the only persons with the same class of machinery in these waters. I knew the capacity, in a general way, of the Charles C. Fobes. I have boarded her.

The Fobes, with her scows, without the tug, would hire for about two hundred and fifty dollars a day. We have hired tugs of similar capacity for that sum.

Cross examined:

I have had experience in the management of dredges of this class. When we hire the tug at two hundred and fifty dollars a day we pay the running expenses. With full crew I would suppose the expenses would be eighty or a hundred dollars a day, exclusive of the tug. We charter tugs at from forty to fifty dollars per day, but the tug
49 that the Fobes has is of more capacity than the one we charter. The towage of a dredge of the capacity of the Fobes would cost fifty dollars a day, as we hire tugs.

As a general thing the towage is a necessary expense. In the Craighill Channel, or deepening a harbor, a tug to tow would be indespensable.

The average working days, taking the season through, is about twenty-one or two days. Last March was an unfavorable month for work. Morris & Co. dredging concern is a New York concern. The city has let no contracts this season, but we have been continually expecting it, and the city council had the matter before them since the early part of January, and finally just before their adjournment they referred it to the mayor & port warden.

Edward J. Codd, recalled by libellants:

I desire to say that I did not mention an element which entered into my estimate of the depreciation of the machinery of the dredge Fobes, which I did not mention when I was before examined, and which I wish to mention now; and that is that if this machinery in the dredge, or rather the dredge and machinery, had been put up for sale after she was raised, it would sell for less, and this is an element that entered
50 into my estimate of eight per cent. depreciation.

I think that machinery of the character of the machinery in this dredge, put in a vessel or bolted to timbers proper to receive it, would, under ordinary circumstances, require to be relined in about twelve months, but this machinery in the Fobes, considering her condition when it was put in, might require to be relined two or three times in twelve months, and it would cost to reline this machinery about a thousand dollars. After the machinery had been relined in the Fobes, that is to say, after the timbers had properly dried, of course this relining would serve as though the machinery had been originally bolted to timbers in proper condition to receive them.

Henry C. Larrabee, sworn for libellants:

I am of the firm of H. C. Larrabee & Co., and am now engaged in iron foundry exclusively, but heretofore, until within the past two years, engaged in machine business—iron machinery.

I inspected the machinery in the Fobes after it had been repaired and cleaned up. I investigated the matter with Mr. Codd, and we estimated that the machinery depreciated eight per cent., and I think this would be a low estimate.

I think it hardly possible for any man to estimate when or how 51 often in twelve months it would be necessary to reline this machinery, but I think it would require close attention and more or less tinkering for twelve months to get it in proper working order. It would, in the case of this vessel, require to be closely attended and work upon it all the time for twelve months. I think it would require the attention of two men all the time during the twelve months at some three dollars and seventy-five cents a day.

Cross-examined:

Independent of this collision, the machinery would require close attention to keep it in condition. If properly put up, machinery of this kind would, or ought to, work twelve months without much expense. I estimate this machinery precisely as Mr. Codd did, and agree with him.

Here adjourned to Saturday, 11 July, 1874, at 10 a. m., and having met pursuant to adjournment, proceeded as follows:

Warren G. Locke, for libellants, sw.:

I was and am at present engineer of the Charles Fobes. I have been engineer on the Fobes since she commenced work.

The condition of the machinery of the Fobes is such at the present time that it must be relined before it is run. This is owing to the shrinking of the bed-timbers to which the machinery is bolted.

52 Cross-examined:

The machinery has never been relined since it was put in until she sunk. The engines would have to be taken out to reline her properly.

John S. Wellener, recalled by libellants:

The machinery of the Fobes is certainly not worth as much as it was previous to the collision which caused her sinking. Such a collision as she had would naturally jar every bolt in the vessel and all the fastenings. I think the hull has been depreciated ten per cent. on the original cost, over and above the costs of repairs.

Cross-examined:

I overhauled and examined the hull thoroughly after the accident and repaired her as well as it could have been done without tearing the whole machine to pieces, which would have been very expensive.

The bilge-logs in the vessel were very much injured. They could not be replaced for five thousand dollars. It would cost at least a thousand dollars to put them in new. After the injury, in order to replace them, it would be necessary to take out the whole side of the vessel. All we did to them was to replace pieces in them about ten inches square. 53 This injury to these logs was in the raising of the vessel; it was done by the chains around her.

Re-examined by libellants:

I was on board the Fobes yesterday. The deck is very much shrunken. I could put a knife through the seams. It will be necessary to recaulk her, and it will cost her three hundred dollars.

Cross-examined:

The shrinkage of the deck was owing to the fact that it was sodden with water, and *laying* in the hot sun it has dryed and shrunk. We did not caulk the deck; we merely calked such new timber as we put in. All the cost that we put on the bilge-logs was for graving pieces, and it was about fifty dollars, I think.

David U. Thursby, sworn for libellants:

I am a ship-carpenter, and worked upon the repairs of the Fobes. I superintended the repairs. I examined her carefully.

I think independent of the repairs the dredge was permanently injured, and I should think not less than ten per cent. of her original cost.

Cross-examined:

I am foreman for M'r Wellener. In estimating the deterioration I take into consideration that the hole in her was six feet four inches one way down in front and along the side two feet eight, and into 54 the deck about five feet, and the jar incident to such a hole.

Next, the bilge-logs running fore and aft were cut at each corner around the log ten inches deep at both ends. These logs are in fact the backbone of the vessel, and while they have been repaired, still they are permanently weakened, and time will show that she can't stand the work that she otherwise would.

Next, we had to scarf the first beam aft. We put in a piece about fourteen feet long. She was strained in raising her.

William H. Skinner, for libellants:

I am a ship-builder, and have been for thirty years. I have never boarded the Fobes, but I have examined the drawing indicating the damage done her, and have heard the testimony of M'r Wellener as to the repairs done on her. I think that such a blow as this vessel received would damage her permanently. I think that repairs on her never could make her as good as new. From the manner in which this vessel was repaired, I am of opinion that ten per cent. deterioration on her original cost would be a reasonable estimate. I am of the firm of William H. Skinner & Sons.

George S. Newman:

55 I am a member of the firm of Stephens & Newman, ship-builders.

I have heard the testimony as to the damage done to this vessel. I think that she has been permanently damaged. I think that deterioration would be fully ten per cent. on her original cost. I have been engaged in business some sixteen years.

Here adjourned to Tuesday, 14th July, A. D. 1874, at 10 o'clock a. m., and meeting pursuant to adjournment, proceeded as follows:

Israel J. Merritt sw'n for respondents:

I am 45 years of age; reside Long Island, New York. I am a wrecker, connected with the Port Wrecking Company of New York. I am general superintendent. The company was organized in 1860 or 1861, and I have been with it ever since. I have been engaged in wrecking business about thirty-one years. I have wrecked from New York in the east to San Francisco west, and from West India Islands in the south to Canada in the north, and during this time my experience has extended to all classes of vessels.

The heaviest vessel I have ever raised is from sixteen hundred to seventeen hundred tons dead weight under water. This would be at the rate of at least four times that in the air.

I have seen dredges in my experience. I have looked at the photo-
graphic view of the dredge Fobes, and am well acquainted with
56 such vessels. I have been several times up and down the harbor
of Baltimore *several times*. Supposing that the dredge in this case, the Fobes, were sunk in the Patapsco River, about eighteen miles from Baltimore, in a channel about three hundred feet wide, known as Craighill Channel, in water about twenty-four feet deep, where the tide is slight and the current is about a mile and a quarter per hour, the tug previous to sinking being a new, staunch-built vessel, thirty-four by eighty-six feet in length, built about July, 1873, with a hole in her side about six feet one way and about two feet six inches at the bow, having aboard no cargo, simply her machinery, and I would undertake to raise her in fifteen days. If there were two hundred tons of ballast in her and two sixty-horse engines, I would raise her in twenty days.

There is nothing that I can see that would be likely to be injured in the raising of such vessel under such circumstances, except the joiner-work on deck, such as the house on deck: the smoke stack, and perhaps piping about the boiler. Smoke-stack would not be lost necessarily. If properly adjusted, there is no danger from the chains beneath her injuring her. There would be no likelihood of straining the vessel; she is too short.

I have raised river steamboats from four hundred and twenty-
57 five feet long down. I raised the steamer City of Norwich, sunk
in the middle of Long Island Sound, in one hundred and twenty feet, and saved her boilers. I raised the Dean Richmond, sunk in thirty-four feet water; she was four hundred and twenty-five feet long or thereabouts, in the Hudson River, and there was nothing about her injured. I steamed her down the river with her own machinery; she was under water about twenty-nine days.

I would have raised this vessel with scows or canal-boats, and screws and chains; I would use three one and three-quarter and two inch chains, and three sets of spars, the best you could get in port, in my judgment. I should want nothing else than jacks and any sort of pump, steam or other. I don't think I could get a wrecking pump in Baltimore.

If I would come to Baltimore and take my chances to get fixings here, I would allow myself twenty days to raise her. I have raised steam vessels that have been under water four years. My experience is that a vessel sunk in fresh water is not affected by water.

My experience is that where vessels have been four years under water the machinery is not affected by the water, and rubbing your hand across the bright work and taking off the slime would clean it.

I' the case of the Dean Richmond there no marks in the hull of the chain in raising her, and only a slight mark on the guard.

58 In my experience, where chains are properly adjusted, there is no danger of there cutting; if the chain is the proper size and has proper bearing it will not cut. I do not remember ever to have cut a vessel, in my experience, in raising her. In my judgment, a liberal price to raise this vessel, the Fobes, and put her in a place of safety, would be fifteen hundred dollars.

The essentials in a wrecker are that he should be a man of experience, skill, and nerve, and I would not think that unless a man were such a man he was fit to raise a vessel sunk as was the Fobes.

I do not think that there is any reason for the deterioration in the value of the hull of such a vessel as the Fobes, sunk as she was.

There was no necessity for the abrasion in the bilge-logs described to me in this case, if the chains had been properly adjusted and skillfully managed.

I have raised vessels seventy miles from harbor, in Lake Erie, in ten, eleven, and twelve fathoms water. I have raised vessel' sunk in Long Island Sound. I have never had any injury to vessels from the chains.

In raising the Fobes I should have used three chains. If these chains had been allowed to be slack, they would have cut, if there had been any motion at all. I should have used the three chains for the purpose of equalizing the weight. I would have considered three chains
59 indispensable. In the case of the Dean Richmond I used fourteen chains.

If skilfully done, there would be no reason for the deterioration of the hull or machinery, except as I have stated. If I were going to raise this vessel, I would not have used a steam-tug; it would not have been necessary, or the only necessity would be to tow the fixtures down there. Our wrecking company does seventy per cent. more than any other company in the U. States, and we take contracts all over the U. States and Canada. I do not think that we would have come on here in the month of March last, for we were busy at the time, but we would have taken it in April. There are other companies in New York that would likely have taken the contract at that time.

Cross-examined:

I have raised no vessels in Maryland waters. The men in wrecking would live in the barges or in a shanty to be built on shore. If I had placed the chains under, I would have swept them under with smaller chains, and this I would do or have done with tugs. I know nothing about the tides here. I never saw this dredge that I know of.

Richard W. Hallett sworn for respondents:

I reside Greenpoint, New York. I am forty-four years of
60 age, and am a wrecker by occupation. I have been engaged in the business off and on for twenty years, and exclusively for the last twelve. I have carried on the business in New York Harbor & vicinity; I have raised every kind of vessel, but not the largest class. I think the heaviest I ever raised was three hundred tons under water, and this would be about three times that out. I have seen dredges such as is described in this case. I know nothing of the harbor of Baltimore or the channel leading to it.

I have heard the testimony of Captain Merritt, and taking the case of this dredge, sunk and equip'ed as there described, I would not like to raise her in less than twenty-five days.

I see no necessity for injuring the vessel in raising her. I should use three chains in raising her. There would be no danger from injury from the chains themselves, properly managed.

I would have undertaken to raise her for a thousand dollars, and place her in a place of safety. I have raised a great many canal-boats in from ten to forty feet of water. The canal-boats are about ninety-six feet long and seventeen and a half feet beam on the Erie Canal. The Schuylkill boats are about a hundred feet in length. They are flat bottom. Those I have raised are principally old; the bilge-plank new on these vessels is two inches thick. I have known it worn down to ⅝ of an inch. I have raised them of the latter sort with two hun-
61 dred and twenty-five to thirty tons of coal.

I never cut but one boat with chains and I have raised some two or three hundred.

I am familiar with the Morris & Cumming dredge. I think in raising such a vessel as the Fobes there is no necessity for her being cut with chains or injured in her hull. I know of no reason why the hull of such a vessel so raised should be damaged by the raising. If the chains are properly placed under her, there is no reason why her machinery should be thrown out of line or injured by the raising. I certainly think that there is no business requiring more skill, experience, and care than wrecking.

There are two modes of accounting for the cutting of the bilge-logs of the vessel in question by the chains: first, if the chain was permitted to slack, any motion of the dredge would tend to saw the chain into the timber; next, if the chains are not heaved on equally, the same result would follow. I could cut such a vessel in two and not raise her from the bottom by heaving on the chains unevenly. And this would be likely to happen in the case of a man who had not experience and skill.

I have raised tug-boats and schooners in Hell-Gate, where the tide runs very strong. I never had them cut with chains in the raising.

I never use a tug in such a case as the Fobes for raising. I
62 would keep my wrecking crew on the barges used in raising the boat.

I never knew fresh water to produce any bad effect on machinery sunk in it.

Here adjourned to enable the libellants to produce witnesses absent from the city.

Met this Monday, 7 September, A. D. 1874, at ten o'clock a. m., and proceeded to examine witnesses on the part of the libellants, as follows:

Barnabas Baker:

I am a member of the firm of B. Baker & Co. of Norfolk, Virginia, and our business is that of wrecking. I have been engaged in the wrecking business thirty-five years on the Atlantic coast, including the Chesapeake Bay and its tributaries, and also in the West India Islands. I have raised in this time a great many vessels and many in Maryland waters. I was applied to in the month of March last, by the libellants, to raise the sunken dredge in this case.

I examined the vessel and then made an estimate for raising the dredge and communicated the same in writing, and the amount we agreed to raise her for was forty-five hundred dollars.

I did charge five thousand dollars and thought this was low, but in consideration of having on hand the material we agreed to do it for

forty-five hundred dollars as our lowest sum. The letters and
63 estimate I allude to are here handed to the commissioner, marked
respectively "A I" and "B I." I am familiar with the waters where this dredge was sunk. The water is mixed; it is salt.

Assuming that in the raising of this dredge a scow was put on each side of her, and these scows were connected with two sticks of timber and three chains swept under her, one in the middle and one at either end, and then these chains first hauled taut, and then the raising force applied by means of screws, I would say that the proper and skillful mode of raising her was adopted.

We always use a tug in such cases, and sometimes two, for the purpose of putting the chains under her. A tug, however, comes handy for different purposes, and we always use one.

The effect of this sinking would cause machinery to rust and decay. The effect of the current is to cut away the iron by moving against it sediment and mud.

In raising such a vessel as this dredge there is necessarily exposed to the strain the sharp edges of her timbers, whereas in raising a vessel of a different description no sharp edges, except her keel, are exposed in the same manner to the strain. If therefore in hauling the chains tau*ght*, in such a case as this, they slip, which will take place however
much care is used, the necessary result is to chafe the timbers
64 more or less. I think they did very well indeed to raise this ves-
sel in twenty-two days.

I know the tug Mary B. Curtis, the one used in raising this vessel. I have paid one hundred dollars a day for her for towing purposes, and I think seventy-five dollars a day for her would be reasonable for any purpose.

Cross examined:

All the apparatus described in paper B I are necessary for the raising of such a vessel as this; they are what we intended to use. The item wrecking steamer in this paper is the tug in this paper. I would not have been surprised if the bilge-logs on this dredge had been cut entirely in two in the raising of her. I would employ a tug at one hundred dollars a day in this job, rather than a scow at twenty, to board my hands in. I think I would employ about twenty men, all told, in the raising of this vessel.

When I say that I would use a tug to board hands and would give a hundred dollars a day for her, I do not mean to be understood as saying that I would use her exclusively as a boarding-house for hands. I would board the hands in her and use her for any and all purposes that exigencies might require. I mean to say that I would not have scows
or lighters about for such purposes. I would not be bothered with
65 them. I have raised barges sixty and sixty five feet long, sunk-
en, and they have been cut nearly in two in the raising. I once raised an iron barge in the Roanoke River, and she was cut in several places until holes were made in her.

James J. Cole sworn:

I am in the employ at present of Baker & Co., and have been in their employ for twelve years. I command the steamer Active, in the service of the company. I was in the employ of Captain Merritt, of the Coast Wrecking Company, for two years.

I know the character of the sunken dredge in this case, and the waters in which she was sunk. I have heard the manner of her raising, the price at which she was raised, and the time in which she was raised, and in all these particulars I think the job as executed was properly done. and the time and charges reasonable. The price is about what the Coast Wrecking Company would charge. Their prices were a little higher than the prices of Baker & Co.

If the Coast Wrecking Company brought their material from New York here to do this job, I think it would cost them a thousand dollars to transport it here and back. I do not think they would have adopted
this course. I think they would have purchased the material here.
66 In raising this vessel there necessarily would have been more
or less cutting of her bilge-logs. I would not have undertaken to raise her and insure that they would not have been cut.

When I was in the employ of the Coast Wrecking Company, on the lakes, under Captain Merritt, we always used a tug in the raising of vessels, and we paid for her one hundred dollars a day when we hired her. The crew lived on the tug.

Cross-examined:

There is certainly an art or skill in the raising of vessels. A person who is not skilled, or knows nothing about it, could not put a chain under a vessel. Persons skilled in the raising of vessels can do it more expeditiously and with less damage than those not skilled.

I, Robert Lyon Rogers, U. S. commissioner for the district of Maryland, do hereby certify that the reason for taking the depositions of Joseph W. Williams, Richard Arscott, William H. Stark, John B. Ely, George C. Fobes, John T. Wellener, Edward J. Codd, Thomas Trimble, Henry C. Larrabee, Warren G. Locke, David N. Thursby, William H. Skinner, George L. Newman, Israel J. Merritt, Richard W. Hallett, Barnabas Baker, and James J. Cole, the foregoing witnesses, is because the same were presented before me for examination by the proctors of the
respective parties, under a decree in a certain cause depending in
67 the district court of the U. States for the district of Maryland,
wherein John B. Curtis and others are the libellants and the claimants of the steam-tug Virginia Ehrman and the claimants of the ship Agnese are respondents, empowering me to take testimony and state an account in said cause.

I further testify that Samuel H. Tagart and William Fell Giles, j'r, esquires, proctors for the libellants, and Charles Marshall, esq., proctor for the respondents, were present before me at the taking of said depositions.

I do also certify that the deponents were first by me carefully examined and cautioned, and duly sworn according to law, to testify the whole truth, and that the said depositions were then reduced to writing by me in the presence of said deponents.

Given under my hand and seal, at the city of Baltimore, in the district of Maryland, this 7th day of September, A. D. 1874.

[SEAL.] ROB'T LYON ROGERS,
U. S. Commissioner & Auditor in said cause.

The exhibits referred to in the foregoing auditor's report and exhibit R. L. R., marked from "A 1" to "A 39," are as follows:

68

EXHIBIT A No. 1.

BALTIMORE, *April 20th*, 1874.

Curtis, Fobes & Co. to J. W. Williams, master-rigger, 113 Thames street, (up-stairs,) D'r. Particular attention given to hoisting heavy merchandise.

To 65¼ days' work, @ $3.50 per day	$228 37
" screw-hire 17 days, @ $16 per day	272 00
" the use of blocks, @ $1 per day, 15 days	15 00
" cartage, $1.00	1 00
	$516 37

Rec'd payment,

J. W. WILLIAMS.

A No. 2.

BALTIMORE, *April 20th*, 1874.

The dredge Charles Fobes & owners, D'r, to Richard Arscott:

For raising, when sunk, by contract, six hundred dol'*ors*	$600 00
Extra labour, 15 days, at $3.50 per day	52 50
	652 50
Cash re*s*'ived on ac'ount	425 00
Balance due	$227 50

Re*s*'ived payment,

RICHARD ARSCOTT.

A No. 3.

69 BALTIMORE, *March 28th*, 1874.

SIDNEY TURNER. NORMAN DAY.

Mess. Curtis & Forbes, bought of Turner & Day, manufacturers of axe, adze, pick, sledge, hatchet, and hammer handles; also, white-oak and hickory spokes. Terms, net cash. Boston street, Canton.

To use of shears to lift 4 sticks of timber, @ $2.50	10 00

Paid.

TURNER & DAY.

To save time and expense took sticks with which we raised dredge under the shears and lifted them on to scows.

A No. 4.

BALTIMORE, 14*th May*, 1874.

Mess. Curtis, Fobes & Co., for dredge C. Fobes, bought of Levin Jones, dealer in anchors and chains, boat-spikes, bar-iron, charcoal, wire rope, tin plate, &c., No. 168 Light-street wharf.

Mar. 27.	To m'd'se, bill ren	356 72
	To old chain, 2,100, @ ½	10 50
70	Drayage & wharfage	2 00
		$369 22
April 17.	Cr. ret., 5,193 lbs. chain, @ 5½	285 61
		$83 61

Paid.

LEVIN JONES,
Per G. T. JONES.

A No. 5.

BALT'O', *May 1st*, 1874.

Curtis, Fobes & Co., to Capt. W'm Stark, D'r.

To 410 days' board, for men raising sunken dredge C. Fobes, at .50. 205 00
Rec'd payment.

W'M H. STARK.

A No. 6.

BALTIMORE, *June 2nd*, 1874.

Mess'rs Curtis, Fobes & Co., to John B. Ely, D'r.

To use of 4 large screws, &c., for raising dredging-machine Cha's Fobes.. $75 00
Rec'd paym't.

JOHN B. ELY.

BALTIMORE CITY, *ss:*

On the fifteenth day of June, eighteen hundred and seventy-four, before the subscriber, a justice of the peace in and for said city, personally appears John B. Ely, and makes oath on the Holy Evangely
71 of Almighty God that the annexed account, as stated, is just and true.

Sworn before

JNO. T. MADDOX, *J. P.*

A No. 7.

BALTIMORE, *Mar. 27th*, 1874.

Dredge Cha's Fobes, to Geo. G. Tyler, D'r, manufacturer and dealer in timber and lumber, Boston street, Canton. Lumber-yard cor. Boston & O'Donnell st's. Saw and planing mill Boston st., Canton.

	To 1 stick w. pine, 20 × 22 = 72 f't,	2, 640 f't.	
	1 " " " 17 × 17 = 85 "	2, 047 "	
	1 " " " 17 × 18 = 85 "	2, 167 "	
	1 " " " 20 × 20 = 85 "	2, 833 "	
		9, 687 f't, 4 c.....	387 48
Ap'l 3.	" 860 f't $\frac{8}{4}$ y. pine, 2½		21 50
			408 98
	CR.		
May 20.	By 4 sticks returned, 9,687 f't, 2 c		193 74
			$215 24

Rec'd payment.

GEO. G. TYLER,
Per GEO. W. OWEN, J'R.

5, 20, 74.

A No. 8.

Baltimore, *April 16th*, 1874.

Mess. Curtis, Fobes & Co., to W. Bollman, D'r.

For use of diver, &c., in patching dredge Cha's Fobes.. $100 00

72 Rec'd payment April 17th, 1874.

W. BOLLMAN,
Per J. A. HENRY.

A No. 9.

Baltimore, *June 1st*, 1874.

Steam-dredge Cha's Fobes & owners to B. S. Wellener, D'r, (successor to Cooper & Slicer,) ship-builder, caulker, spar-maker, and proprietor of marine railway, corner of Philpot and Will streets.

Repairing damage by sinking through collision:

1874.

	April	15.	To 11 days carpt., 3.75, & 250 f't plank, 7, & 5 lbs. spikes, 12, (blocking ways)........	59	35
		16.	“ 3½ days carpt., 3.75, & 10 lbs. cut nails, 10	14	12
		17.	“ hauling upon the ways, (with water & ballast) .	60	00
		18.	“ 10 days carpt., 3.75, & 674 f't plank, 7, & 237 f't timber, 5½	97	71
		20.	“ 8 “ “ 3.75, & 32 f't timber, 5½, & 65 lbs. spikes, 12, & 29 lbs. bolts, 8........	42	88
			“ use ways, 1 day, $20 per day	20	00
		21.	“ “ “ ½ “ $20 “ “ & 2 days carpt., 3.75........	17	50
			“ 18 days caulker, 3.50, & 2 days boy, 1.25, & 64 tre'nails, ea. 5	68	70
			“ 150 lbs. N. oakum, 12, & 36 gall's pitch, 40, & 25 lbs. bolts, 8........	34	40
			“ 34 f't timber, 5½, & use beadle, 50	2	37
		24.	“ 5 days carpt., 3.75, & 1,099 f't timber, 5½, & stage, 50........	79	69
		27.	“ 7¼ “ “ 3.75, & 259 f't plank, 7, & “ 50........	45	82
		28.	“ 6 “ “ 3.75, & 182 f't decking, 7, & “ 50........	35	74
73		29.	“ 2¾ “ “ 3.75, & 154 lbs. bolts, 8, & “ 50........	23	13
		30.	“ 5½ “ “ 3.75, & 43 rings, 4 ea., & stage. 50.	22	84
	May	1.	“ 4½ “ “ 3.75, & 1 8 inch knee, $6, & stage, 50	23	37
		2.	“ 4½ “ “ 3.75, & 30 lbs. g. spikes, 16, & stage 50, & 200 plugs, 20.....	22	57
		4.	“ 2½ “ “ 3.75, & 3 days caulker, 3.50, & ½ day boy, 1.25........	20	49
		5.	“ 3 “ “ 3.75, & 1,088 f't y. pine timber, 5½, & 45 f't plank, 7	74	24
		6.	“ 2 “ “ 3.75, & 4 days caulker, 3.50, & ¾ days boy, 1.25........	22	44
		7.	“ 2 “ “ 3.75, & 1½ days caulker, 3.50, & 257 f't timber, 5½........	26	88

May	8.	To 1½ days carpt., 3.75, & 175 lbs. bolts, 8, & 1 lb. g. nails, 18	19 80
	9.	" 1 " " 3.75, & 50 lbs. oakum, 12, & 2 lbs. cotton, 20, & 10 gall's pitch, 40	14 15
	12.	" ½ " " 3.75, & 136 f't plank, 7	11 39
	13.	" 3¼ " " 3.75, & 8 lbs. spikes, 12	13 15
	14.	" 4½ " " 3.75, & 1 pole, 1.50	18 37
	15.	" 3½ " " 3.75, & 1 lb. g. nails, 18	13 30
	16.	" 3½ " " 3.75, & use 4 clamp-screws 4 days, 25 ea., per day	17 12
	18.	" 4¼ " " 3.75	15 94
	19.	" 3¼ " " 3.75	12 19
	20.	" 3¼ " " 3.75	12 19
	21.	" 5 " " 3.75, & 270 f't plank, 7 & 12 iron screws, 2 ea	37 89
	22.	" 3½ " " 3.75, & 12 brass screws, 5 ea	13 72
	23.	" 1¼ " " 3.75, & 1 12-inch oak knee, $20	24 69
	25	" 3¼ " " 3.75, & 76 f't sawing, 5 per foot	15 99
	26.	" 4¼ " " 3.75, & 8 lb. g. nails, 18	17 38
		To amount carried forward	$1,071 41
1871.			
May	27.	To 2¼ days carpt., 3.75, & 20 lbs. bolts, 8	10 04
	28.	" 2¼ " " 3.75, & 48 rings, 4	10 36
	29.	" 1 " caulker, 3.50, & 6 lbs. cotton, 20	4 70
74	30.	" 2 " " 3.50, & 5 lbs. oakum, 12	7 60
		1 old mast, $25.00, for side fender lost	26 00
			$1,130 11

Rec'd payment.

B. S. WELLENER,
Pp. JNO. T. WELLENER.

JUNE 3RD, '74.

BALTIMORE, *June* 1*st*, 1874.

Scows of dredge Cha's Fobes & owners to B. S. Wellener, D'r, (successor to Cooper & Slicer,) ship-builder, caulker, spar-maker, and proprietor of marine railway, corner of Philpot and Will streets.

Reparing damage caused by raising sunken dredge:

1874.		
April 22.	To 1½ days carpt., 3.75, & 71 f't decking, 7 & 41 plugs, 20 p'r h'd	10 67
	" ½ " caulker, 3.50, & 8 lbs. g. spikes, 16	3 03
	" 3 lbs. N. okum, 12, & 1 gall. pitch, 40	76
		$14 46

Rec'd payment.

B. S. WELLENER,
Pp. JNO. T. WELLENER.

JUNE 3RD, '74.

A No. 10.

BALTIMORE, *April* 17*th*, 1874.

Steam-dredge Charles Fobes & owners to J. T. Simpson, D'r.

April 17.	To repairs to joiner's work to house on deck, and " " " 3 days' work @ 3.50 p'r day	10 55

	April	17.	To 216 f't dress. lumber, @ 7½ c. p'r foot	15	20
75	"	18.	" 2½ days' work, @ $3.50 per day	8	75
	"	20.	" 1 day's work, @ 3.50, 273 f't dressed lumber, @ 8 c	25	34
	"	21.	" 2 " " @ 3.50, & 783 f't lumber, a 6c. p'r foot	53	98
	"	22.	" 2½ " " a 3.50, & 63 " " a 6c. p'r foot	12	53
	"	"	" 3,842 f't dressed lumber, 7½c. p'r f't	288	15
	"	23.	" 2 days' work, a 3.50, & 50 lbs. nails, a 8c. p'r lbs	11	00
	"	24.	" 2 " " a 3.50	7	00
	"	25.	" 2 " " a 3.50	7	00
	"	27.	" 6 " " a 3.50, & 50 lbs. nails, a 8c. per lbs	25	00
	"	28.	" 6 " " a 3.30, & 1 day's work, a 1.25 p'r day	22	25
	"	29.	" 5½ " " a 3.50, & 1 day's work, a 1.25 p'r day	20	50
	"	30.	" 5½ " " a 3 50, & 1 day's work, a 1.25 p'r day	20	50
	May	1.	" 5 " " a 3.50, & 1 day's work, a 1.25 p'r day	18	75
	"	2.	" 6½ " " a 3.50, & 1 day's work, a 1.25 p'r day	24	00
	"	"	" 345 f't dressed lumber, a 8c. p'r f't, & 50 lbs. nails, a 8c	31	60
	"	4.	" 5 days' work, a 3.50, & 1 day's work, a 1.25 p'r day	18	75
	"	"	" 10 pair hinges, a 25c. p'r pair, & 6 latches, a 25c. each	4	00
	"	"	" 1 gross screws, a 1.20, & 4 locks, a 1.50 per lock	7	20
	"	5.	" 4 days' work, a 3.50, & 1 day's work, a 1.25 p'r day	15	25
	"	6.	" 4½ " " a 3.50, & 1 day's work, a 1.25 p'r day	17	00
	"	7.	" 2½ " " a 3.50, & 2 doz. iron screws, a 10c. p'r doz	8	95
	"	8.	" 1¼ " " a 3.50, & 6 doz. iron screws, a 10c. per doz	4	97
	"	9.	" 2 " " a 3.50, & 1 day's work, a 1.25 p'r day	8	25
	"	11.	" 2 " " a 3.50, & 1 day's work, a 1.25 p'r day	8	25
	"	"	" 252 f't dressed lumber, a 7½c. p'r f't, & 242 f't lumber, a 6c	33	42
	"	"	" 5 lbs. wrought nails, a 20c., & 14 iron buttons, a 5c. apiece	1	70
	"	"	" Amount forward	$730	79
76	May	11.	D'r steam-dredge Charles Fobes & owners to am't for'd	730	79
	"	12.	To 3 days' wor k, a 3.50, & 20 lbs. nails, a 8c. per lb	12	01

May 12.	To 466 f't dressed lumber, *a* 7½*c.* p'r f't	34 95
" 13.	" 3 days' work, *a* 3.50, & 16 lbs. nails, *a* 8*c.* p'r lb*s*	11 78
" "	" 67 f't dressed lumber, *a* 7½*c.* p'r f't	5 02
" 14.	" 2½ days' work, *a* 3.50, & 200 f't lumber, *a* 6*c.* p'r f't	20 75
" "	" 12 buttons *a* 5*c.* apiece, & 2 p'r hinges, *a* 25*c.* p'r pair	1 10
" 15.	" 1 day's work, *a* 3.50, & 1 day's work, *a* 1.25 p'r day	4 75
" 16.	" ½ " " *a* 3.50	1 75
" "	" glazing sash, $6.67	6 67
" 19.	" 3 days' work, *a* 3.50, & 1 day's work, *a* 1.25 p'r day	11 75
" "	" 4 lbs. nails, *a* 8*c.* p'r lb*s*	32
" 28.	" ½ day's work, *a* 3.50, & 79 f't lumber, *a* 7*c.* p'r f't	7 28
" 29.	" 1 " " *a* 3.50, & 9 lbs. nails, *a* 8*c.* p'r lb	4 22
" 30.	" 1 " " *a* 3.50	3 50
		$856 71

A No. 11.

BALTIMORE, *May 18th*, 1874.

Mess. Curtis, Fobes & Co. to E. J. Codd & Co., d'r, builders of marine & stationary engines, boilers, & mill machinery, iron and brass castings of every description. Repairs promptly attended to. Office & works Nos. 257, 259, & 261 South Caroline street.

77 To repair work on dredge Cha's Fobes, damaged by being sunk:

Ap'l	4.	To 30 f't of 2¼-in. 4-ply hose, 1.00	30 00
		" one pair long shank couplings " " swivel joint for iron pipe " 4 clamps and brass screws	14 75
		" one cut and 1 thread, on 2½-in. pipe, 85	1 70
		" " 10-in. thread, on 2½ " "	2 70
		" hands, 2 h'rs screwing up pipe, 25	50
		" 8 f't 6-in. pipe, 2.25	18 00
		" 4½ " 5 " " 1.75	7 44
		" 4 " 2½ " " 65	2 60
		" one 6-in. tee	7 95
		" 2 6-" bushing, 4.30	8 60
		" lathe, 4 h'rs on bushing, night, 65	2 60
		" helper, 4 " " " " 25	1 00
		" smith 1 " " pipe, night	75
		" hauling	1 00
	20.	" b.-makers, 6 h'rs on stack, 35	2 10
		" helper, 6 " " " 25	1 50
	21.	" 43 lbs. of 1-in. O iron, 7	3 01
		" b.-makers, 15 h'rs on stack, 35	5 25
		" helpers, 2½ " " " 25	63
	22.	" smith, 7½ h'rs straightening shaft, 75	5 63
		" b.-makers, 12 h'rs " " 35	4 20
		" helper, 12 " " "	3 00

		To b.-makers, 8 h'rs on stack, 35	2	80
		" helper, 8 " " " 25	2	00
78		" 12 ¾ × 3-in. bolts, 30	3	60
		" hauling shaft	1	00
	23.	" smith, 1 h'r making band		75
		" planer, 2½ h'rs on nuts, 65	1	63
		Over	136	69
		To amount brought forward	136	69
		" 6 1½-in. hex. nuts, 75	4	50
		" one ⅜-in. globe valve	1	75
		" b.-makers, 13 h'rs on stack, 35	4	55
		" helper, 13 h'rs " " 25	3	25
	24.	" planer, 3 " " nuts, 65	1	95
		" smith, ½ " " band, 75		37
		" 14 lbs. of iron, 7		98
		" patt. M., 1 h'r on door frame		40
		" b.-maker, 6 " " stack, 35	2	10
		" helper, 6 " " " 35	1	50
		" 2 ⅜-in. nipples, 09		18
	27.	" 24 lbs. of ⅜ × ⅝-in. rivets, 20	4	80
		" one door-frame, 50 lbs., 5	2	50
		" smith, 2½ h'rs straightening screw, 75	1	87
		" hand, 5 " grinding in valve, 25	1	25
		" ½ ℔ of ground glass, 30		15
		" ½ " " red lead, 20		10
		" ½ " " wh't " 20		10
	28.	" hand, 1 h'r chipping draw frame		25
		" press, 1 " drilling " "		65
		" smith, 1½ " on braces, 75	1	13
79		" 21 lbs. of iron, 7	1	47
		" patt. M., 10 h'rs on pipe pattern, 40	4	00
		" 9 f't of lumber, 6		54
		" one 1½-in. globe valve	7	80
		" 8 ⅝ × 1½-in. bolts, 15	1	20
		" 8 ⅝ × 2-in. " 20	1	60
		" 12 ⅝-in. washers, 2		24
		" b.-makers, 10 h'rs on boiler, 35	3	50
		" helper, 10 " " " 25	2	50
		" b.-maker, 40 " " stack	14	00
		" 1,122 lbs. of plate iron, 8	89	76
		" hauling		50
	29.	" 3 cuts and 3 threads on 1½-in. pipe, 32	1	92
		" 3 " " 3 " " 1 " " 18	1	08
		" vise, 1 h'r on lever		25
		" lathe, 2½ h'rs on shaft, 75	1	87
		" helper, 1 " " "		25
		" smith, 2½ " " damper rod, 75	1	88
		" 15 lbs. of iron, 7	1	05
		Over	$306	43
		To amount brought forward	306	43
		" one ¼-in. coupling		06
		" 14½ in. of 2-in. ex. strong pipe, 80		97

			To 2 threads and 1 cut on d'o, 46	1	38
			“ patt. M., 1 h'r on pipe patt		40
			“ 19½ in. of 1½-in. pipe, 30		50
			“ 5 1½-in. nippers, 27	1	35
80			“ 1 ½-in. elb		44
			“ 1 2- “ “		55
			“ 15½ in. of 1-in. pipe, 22		29
			“ b.-makers, 3½ h'rs on stack, 35	1	23
			“ helper, 3½ “ “ “ 25		87
			“ 25 lbs. of sheet-iron, 10	2	50
			“ 3 ½ × 1½-in. bolts, 10		30
			“ b.-maker, 10 h'r' on boiler	3	50
		30.	“ smith, 3 h'rs on hinges and shaft, 75	2	25
			“ 22 lbs. of iron, 7	1	54
			“ lathe, ½ h'r on shaft, 75		38
			“ patt. M., 1½ h'r on core-box for pipe, 40		60
			“ b.-maker, 1 h'r on stack		35
			“ helper, 1 h'r “ “		25
			“ b.-makers, 5 “ “ boiler	1	75
			“ helper, 5 “ “ “	1	25
			“ hauling 2 loads, 50	1	00
	May	1.	“ one 1½-in. globe valve	7	80
			“ “ 1¼-in “ “	6	00
			“ 4 ⅝ × 2½-in. bolts, 25	1	00
			“ 1 ⅜ × 1-in. sett screw		21
			“ 1 lb. of red lead		25
			“ one cast pipe, 269 lbs., 5	13	45
			“ 4 ⅝ × 5-in. bolts, 30	1	20
			“ 4 lbs. of ½-in. rivets, 20		80
			Over	360	85
81			To amount brought forward	360	85
			“ lathe, 5 h'rs on pipe, 65	3	25
			“ b.-makers, 10 h'rs on boiler, 35	3	50
			“ helper, 10 “ “ “ 25	2	50
			“ lathe, 1 “ “ studs		65
			“ smith, 3½ “ “ guy-rods, 75	2	62
			“ 49 lbs. of iron, 7	3	43
			“ press, 1 h'r on safety-valve		65
			“ vise, 1½ “ “ “ “ 35		52
			“ hand, 1 “ fitting screw in sockett		35
			“ press, ½ “ on do., 65		33
	May	2.	“ hauling stack	3	00
			“ lathe, 2½ h'rs on pipe, 65	1	63
			“ planer, 2½ “ “ “ 90	2	25
			“ b.-cutter, 1 h'r on bolts		60
			“ one cast flange, 10 lbs., 5		50
			“ b.-makers, 10 h'rs on boiler	3	50
			“ helper, 10 “ “ “	2	50
			“ 11 f't 2¾ in. of 3-in. boiler tube	4	27
			“ 12 ⅝-in. washers, 2		24
			“ 4 ⅝ “ square nuts, 10		40
			“ 1 ¾ “ “ “		20
		4.	“ b.-cutter, ½ h'r on bolts, 60		30

		To hauling	1 00
		" lathe, 1 h'r on flange	65
		" vice, 1 " " "	35
		" press, 1 " " "	65
82		" planer, 2½ h'rs on caps, 90	2 25
		" press, 1 " " pipe	65
		" 8 ½-in. square nuts	80
		" 4 ½-in. washers, 2	8
		" hand, 5 h'rs on cape and jacket, 40	2 00
		" helper, 5 " " " " 25	1 25
	5.	" lathe, 1 " " shaft	65
		" hand, 1 " " clipping-wheel	35
		" smith, 2½ " " on brackets and bolts, 75	1 87
		" 5 lbs. of iron, 7	35
		" hauling	50
		" hand, 4 h'rs on cape and jacket, 40	1 60
		" helper, 4 " " " " " 25	1 00
		" 3 sheets, 132 lbs. of iron, 10	13 20
		Over	$427 24
		To amount brought forward	427 24
		" repairing 2 steam guages, 8.00	16 00
		" one safety-valve ball, 78 lbs., 5	3 90
		" 2 lbs. of ¼ × ½ in. rivets, 20	40
		" 6 ⅝ × 2½ in. bolts, 25	1 50
	6.	" 1 thread and 1 cut on 1¼-in. pipe, 25	50
		" 2 " " 2 cuts on 1½ " " 32	1 28
		" b.-makers, 4 h'rs on cape and jacket, 35	1 40
		" helper, 4 " " " 25	1 00
		" hand, 3 " " " 40	1 20
		" 2 lbs. of ¼-in. rivets, 20	40
		" lathe, 2½ h'rs on shaft, 65	1 63
83		" hand, 5 h'rs tapping and chipping wheel, 35	1 75
		" press, 2½ h'rs drilling wheel, 65	1 62
	7.	" b.-cutter, 1 h'r on bolts	60
		" 2 threads and 1 cut on 1½ pipe, 32	96
		" hand, 5 h'rs patching wheel, 35	1 75
		" " 2½ " riveting p'e's on wheel	87
		" 5⅝ f't of 1½-in. pipe	1 70
		" one 1½-in. coupling	22
		" " 1½-in. ell	44
		" hauling 2 loads	1 00
	8.	" one ¼-in. thread	7
		" hand, 2 h'rs on cape and jackett	80
		" helper, 3 " " " " "	75
	9.	" b.-maker, 10 " " " " "	3 50
		" helper, 10 " " " " "	2 50
		" smith, 2½ " " band, 75	1 87
		" 11 lbs. of angle-iron, 10	1 10
		" 4 ¾ × ½ in. bolts, 10	40
		" 1 lb. of ¼-in. rivets	20
	12.	" hauling castings	1 50
		Over	480 05

		To amount brought forward	480	05
		" press, 6 h'rs on casting, night, 65	3	90
		" helper, 6 " " " " 25	1	50
		" hand, 6 " running engine	1	50
		" smith, 2½" on bolts, 75	1	87
		" 8 lbs. of iron		56
84		" smith, 1 h'r on chisels		75
		" 12 lbs. of steel, 25	3	00
		" hauling		50
	13.	" hand, 7½ h'rs chipping brace, 25	1	87
		" press, ½ " on " 65		33
		" hand, 1 " on casting		35
		" helper, 1 " " "		25
		" hand, 5 " cutting bolts, 25	1	25
		" lathe, 3 " on " 65	1	95
		" smith, ½ " on bolts and washers, 75		37
		" hauling		50
	16.	" hand, 10 h'rs on dredge, 35	3	50
		" smith, 2½ " " cutters and bolts, 75	1	87
		" ½ lb. of munce metal		25
		" 2 lbs. of steel, 25		50
	18.	" lathe, 1 h'r on bolts		65
		" press, 2½ " " flange	1	63
		" helper, 1 " " "		25
		" hand, 1 " filing nuts		25
		" " 10 " on dredge	3	50
		" 2 ½-in. H ex. nuts		20
		" 1½ f't of 1½-in. pipe		42
		" 1 cut and 2 threads on do		96
	19.	" planer, 2½ h'rs on brass nuts, 65	1	63
		" lathe, 1 " " flange		65
		" hand, 2½ " " dredge, 35		88
		" 2 brass nuts, ½ lb		23
85	20.	" one 1-in. coupling		14
		" lathe, 2½ h'rs on ball and steue, 65	1	63
		" smith, 2½ " " knee, 75	1	87
	21.	" press, 2½ " " " 65	1	63
		" smith, 2½ " " " 75	1	87
		" 21 lbs. iron, 7	1	47
		" one cast step, 348 lbs., 5	17	40
	25.	" smith, 1 h'r on drills		75
		Over	$544	63

	To amount brought forward	544	63
	" smith, 5 h'rs on strap	3	75
	" 62 lbs. iron, 7	4	34
26.	" smith, 8 h'rs on drills, bolts, and hooks, 75	6	00
	" 5 lbs. of steel, 25	1	25
	" 19 " " iron, 7	1	33
27.	" hands, 1 h'r tapping swivels		25
	" lathe, 2½ h'rs on drills, 65	1	62
	" hauling		50
28.	" b.-cutter, 1 h'r on swivels		60
	" vise, 1 h'r " "		25
	" smith, 7½ h'rs on punches, hammers, & chisels,	5	62

	To 16 lbs. of cast steel	4 00
	" 24 " " Swedish iron, 10	2 40
	" 7 " " plate " 8,	56
	" 12 ⅞×10½ in. bolts, 30	3 60
	" 2 1½-in. unions	4 40
	" 6 eye-bolts	12 00
86	" 3 f't 1½-in. pipe	90
	" 4 threads and 2 cuts on do., 32	1 92
		$599 92
	" one heater as per contract	109 00
		$708 92

Balto., June 1st, 1874.
Paid.

E. J. CODD & CO.

A, No. 12.

Galvanized iron, spikes, and nails, of all kinds.

BALTIMORE, *April 24th*, 1874.

Mess. Curtis & Fobes, for dredge Cha's Fobes, bought of Ja's A. Whiting & Co., importers and dealers in foreign and domestic hardware, 130 W. Pratt street, between Calvert and South. Terms cash.

	4 bars 1⅛ r'd iron	
	4 " 1 " do	
	2 " ⅞ " do } 464	18 56
	drayage	25
	10 lbs. gal. tacks, 38	3 80
		22 61
April 29.	5 gal. boiled oil, 1.10	5 50
	25 lbs. yellow ochre, 4½	1 13
	2 gal's sp's turpentine & can 50, 60	1 70
	1 " Japan & can 40	1 80
	drayage	1 00
May 1.	10½ lbs. gal. tacks, 38	3 99
		37 73

87 May 10th, 1874.
Paid.

JAMES A. WHITING & CO.
RAYMOND.

Galvanized iron, spikes, and nails, of all kinds.

BALTIMORE, *May 19th*, 1874.

Mess. Curtis & Fobes, for dredge Cha's Fobes, bought of Ja's A. Whiting & Co., importers and dealers in foreign and domestic hardware, 130 W. Pratt street, between Calvert and South. Terms cash.

3 files, ea. 14 in. ½ r'd, 8.50, & flat, 8.50	4 25
1 bitt, " ¼, 30; ⅜, 35	65
1 " " ½, 40; 1, 75	1 15
1 wrench, 12, 75; 15, 1.25	2 00

1 r'd file, " 12, 75; 16, 1.25	2 00
1 sq. " 16	90
2 rules	1 80
1 tape-line	1 00
1 fore-plane	2 00
1 drawing-knife	90
1 socket*t*-chisel, 1¼	75
1687 lbs. sheet iron, 16, 7	118 09
	135 49

May 21st, 1875.
Received payment.

JA'S A. WHITING & CO.
RAYMOND.

A No. 13.

Imported and domestic hardware, steamboat, railroad, & machinist supply store.

BALTIMORE, *May 19th*, 1874.

88 Dredge Charles Fobes bought of Holmes & Co. Signal, lard and engine oils, tallow, waste, gum and hemp packing, hose belting, boiling felting, rivets, bolts, washers, steam and water guages, glass oil cups, pumps, brass works, &c., &c. No. 72 West Pratt street.

6 zinc squirt cans, 25	1 50
2 lbs. ⅝ Tuck's packing, 80	1 60
5¼ " 1 " " "	4 20
1½ " ⅝ eagle " 50	75
4¾ " 1 " " "	2 38
44½ gall's laurel oil, 55	24 48
43½ " lard " 90	39 15
100 lbs. cake tallow, 10	10 00
2 p'r 4″ callipers, 50	1 00
1 " 8″ do	75
50 lbs. #1 cotton waste, 18	9 00
1 hand-vise	1 25
1 ⅝″ gum-punch	1 10
1 p'r dividers	90
1 washer-cutter	2 00
1 1¼ gouge	1 00
	$101 06

Rec'd payment.

HOLMES & CO.

A No. 14.

BALTIMORE, *May 21st*, 1874.

89 Dredge C. Fobes & own's bought of Loud, Claridge & Co., ship chandlers & grocers, dealers in patent cordage, chains, anchors, duck, paints, oils, naval stores, oakum, blocks, beef, pork, flour, sugar, coffee, etc., corner Smith's Wharf and Pratt st.

April 22.	522 lbs. manilla, 17, 88.74; 5¼ lbs. ratline, 14, 74	89 48
	21 " " 17, 3.57; drayage, 75	4 32

	25.	9½ gall. raw oil, 106, 10.07; 50 lbs. red lead, 11, 5.50.	15	57
		300 lbs. white lead, 12½, 37.50; 53 lbs. yellow ochre, 5, 2.65	40	15
May	19.	581 5-in. manilla, 17, 98.77; 4 gal. hoop buckets, 4	102	77
			$252	29

Rec'd pay't.

LOUD, CLARIDGE & CO.

A No. 15.

Paints, oils, cordage, canvas, twine, &c., &c.

BALTIMORE, *May 30th*, 1874.

Dredging machine Charles Fo*r*bes, bought of H. Steffens, ship chandler and family grocer, No. 26 Fell street. Terms .

	April	6.	7½ lbs. lead, 18	1	35
			1 lead-line		50
			224 lbs. manilla rope, 16¾	37	52
			1 bale oakum, 10	5	00
			3½ lbs. amberline, 20		70
90	May	1.	17 g'l. paint oil, 1.15	19	55
			25 lbs. yellow o*k*er, 4½	1	12
			5 " um*e*r, 16		80
			1¾ " ratline, 16		28
			2 " lampblack		36
			2 scrubbing-brushes, 20		40
		6.	10 gl. paint oil, 115	11	50
			1 lb. blue		50
			5 " c'rome green, @16		80
			10 " velvet black, 13	1	30
			1 brush		20
			100 lbs. Lewis' lead	12	50
			½ gl. sp. turpentine		40
		14.	15 gl. boiled oil, 1.15	17	25
			1 bbl. tar	4	25
			32 f't oars, 9	2	88
		20.	15 gl. boiled oil	17	25
			2 papers galv. tacks, 18		36
			1 quart patent dryer		30
		27.	15 gl. boiled oil, 1.15	17	25
			1 paint brush		75
			1 lb*s*. c'rome green		16
		29.	10 gl. boiled oil	11	50
				$166	73

Balto., June 1, '74.
Rec'd payment.

H. STEFFENS.

91 A No. 16.

BALTIMORE, *April 28th*, 1874.

Mess. Curtis & Fobes, for dredge C. Fobes, to Lambdin and Waddy, d'r, sail-makers, s. w. corner of Frederick and Pratt streets.

153 yards No. 6 double-width duck, at 65 c	99	45
243 lbs. good second canv*i*s, at 12 c	29	16
	$128	61

Rec'd pay't.

LAMBDIN & WADDY.

A No. 17.

Incorporated 1846.

PORTLAND, M'E, *April*, 1874.

Dredge Cha's Fobes & owners, bought of Portland Company, manufacturers of locomotives, marine and stationary engines, iron and composition castings of every description. Terms cash.

1 boom trepod casting, 865 lbs.	
1 " foot " 306, 1,171 lbs., 5	58 55
52 f't patten str'ch on do., 7	3 64
$5\frac{1}{10}$ day pattern-makers, do., 4.50	22 95
$1\frac{9}{10}$ " machinist, do., 4.50	8 55
$1\frac{9}{10}$ " use of tools, 1.00	1 90
2 sets friction-works, all fitted	307 84
	403 43
	6 00
	397 43

92 A No. 18.

BALT'O'.

Mess'rs Curtis, Fobes & Co., to Jno. S. Beachem & Bro., D'r.

1874.		
April	1. 336 f't timber, 5	16 80

May 20, '74.
Rec'd pay't.

JNO. S. BEACHEM & BRO.

A No. 19.

BALTIMORE, *May* 29, 1874.

Mess. Curtis, Forbes & Co., for dredge C. Forbes, bought of Cumberland, Dungan & Co., No. 26 South Charles st., railroad, engineers', and machinists' tools and supplies, Blake steam-pumps, wrought-iron pipe, leather and gum belting, engines, boilers, Sturtevant's blowers, Judson's governors, and all kinds of wood and iron working machinery. Terms cash.

504 f't wool-back felting, ¾, 16	80 64

Rec'd payment.

CUMBERLAND, DUGAN & CO.

A No. 20.

BALTIMORE, *May 29th*, 1874.

Mess'rs Curtis, Forbes & Co., for dredge C. Forbes, to Hergesheimer & Bro., D'r.

April 20. To 4 sling-chains, 296 lbs., @ 7 cts	$20 72
4 ring & 4 links for do., 112 lbs., 14 c'ts	15 68

93	2 bands, 76 lbs., 15 c'ts	11 40
	2 solid eyes for d'o	4 50
	8 eyebolts, 111 lbs., 15 c'ts	16 65
	8 nuts & screwing, d.o, 44 c'ts	3 52
	2 braces, 380 lbs., 14 c'ts	53 20
	4 plates, 40 lbs., 15 c'ts	6 00
	4 flat-head bolts, 19 lbs., 15 c'ts	2 85
	4 keys & 4 rings for do	80
	8 square washers, 44 c'ts	3 52
	2 swivels, 46 lbs., 22 c'ts	10 12
		$148 96

Received payment.

HERGESHEIMER & BRO.

A No. 21.

BALTIMORE, 187 .

Curtis & Fobes, for dredge Charles Fobes, to Philip Sherwood, D'r, shipsmith, No. 17 Philpot street.

April	22.	To rep'g knee-plate 75; 4 bolts, 7 lbs., a 15. Rep'g 2 bolts, 15	2 10
		1 plate, 9 lbs., 15	1 35
May	1.	" Rep'r'g & screwing 2 swivel rods, 3 men 6 hours ea., 37½	6 75
		" 23 lbs. iron nuts, @ 10; use of forge, coal, & tools, $1.00	3 30
		" rep'r'ng 2 slice-irons, 25	50
	4.	" 9 screw-bolts, 21 lbs., *a* 15; 9 washers *a* 3	3 42
	7.	" making 65 lbs. screw-bolts & nuts *a* 12½	8 13
94		" 7 screw-bolts, 13 lbs., *a* 15; 17 washers *a* 3	2 46
		" 3 bolts, 3 lbs., *a* 12½; 10 large nails, *a* 5	87½
	13.	" 5 screw-bolts, 58 lbs., *a* 12½; 5 large washers *a* 5	7 50
	14.	" 1 do. do., 16 lbs., *a* 12½; 1 large do. *a* 5.	2 05
	19.	" p*ei*cing 2 augers, 4 lbs., *a* 15; repr'g & screwing 8 bolts, 20	2 20
		" 1 double-end screw-bolt, 57 lbs., *a* 12½; 69 lbs. screw-bolts, 12½	15 75
		" 14 washers, *a* 3; repr'g & screwing 1 bolt, 25	67
	20.	" 6 screw-bolts, 24 lbs., *a* 15; 12 washers, *a* 3	3 96
		" making steel drifter; p*ei*cing drill, 50	1 00
	22.	" repr'g & and screwing 2 bolts, 25; 3 screw-bolts, 13 lbs.; 3 washers 3	2 54
		" 2 p*ei*cing 2 screw-bolts, 7 lbs., *a* 15; 2 washers, *a* 3	1 11
			$65 56

Rec'd payment.

PHILIP SHERWOOD.

A No. 22.

BALTIMORE, *April 3d*, 1874.

Mess'rs Curtis, Fobes & Co., to tug-boat J. W. Bullock, D'r.

For taking screws & lumber from Balt'o' to sunken dredge	$18 00

Correct.

Received payment.

R. W. SPEDDEN.

A No. 23.

BALTIMORE, *June 1st*, 1874.

Mess. Curtis, Fobes & Co., machine Cha's Fobes, to Jno. Wells'
95 sons, D'r, dealers in engineers' and machinists' supplies, No. 47 Thames street.

April	27.	3 gal. lard-oil	$3 00
“	“	8 sheets emery-cloth	40
“	“	1 oil-can	50
“	“	1 ped. cock	65
“	“	2 hammer-handles	20
“	“	18 bolts ⅝ x 2½"	1 31
“	“	6 “ ⅝ x 3	46
“	“	6 “ ½ x 2½	31
“	“	1 lb. ⅝ washers	15
“	30	2 ⅝ *gua*ge-glasses	1 40
“	“	6 ⅝ “ rings	30
May	5.	2¾ lbs. mal. pipe	50
“	“	1 broom	25
“	“	2 single gal. iron blocks	70
“	“	1 “ do	62
“	“	1 doub*b*le do	75
“	12	20 lbs. No. 1 cot. waste	4 40
“	“	6 sheets emery-cloth	30
“	25	1 lb. copper wire	80
“	“	12 bolts ⅝ x 3	1 20
“	“	1-16 in. pipe-wrench	4 00
“	“	½ doz. tin lamps	1 80
“	“	1½-lb. washers	27
“	26	6 wood-screws, ¾ x 5	60
“	29	12 ¾ washers	24
96 “	“	1 pair plyers	87
			$25 98

Rec'd pay't.

A No. 24.

BALTIMORE, *May 9th*, 1874.

M. Curtis, Fobes & Co., to steamer Blackstone, D'r.

Freight from Boston, No. 104, 126. A. L. Huggins, agent.

4 cases m'd'se.	Freight	$8 28
	Charges	4 05
4 p'c's castings.	Boston wharfage	42
	Baltimore wharfage	21
		$12 96

Received payment.

J. WINGHAM.

A No. 25.

121 W. BALTIMORE STREET.

Opposition line. Prices reduced.

Franklin telegraph Co. of Baltimore City; lines east, west, north, and south.

Terms and conditions.

The rules of this company require that all messages received for transmission shall be written on the message-blanks of the company, under and subject to the conditions printed thereon.

R. DUFF, *Pres't.*

Blank No. 1. BALTIMORE, *Mc'h* 27, 1874.

By telegraph from Norfolk, V'a, to Curtis, Fobes & Co.:

97 Call on Ja's Carey Coale. Our Capt. Stoddard will be there tomorrow.

B. & J. BAKER & CO.

A No. 26.

Curtis & Fobes, dredge C. Fobes, to Henry Boss, D'r.

May	2.	For repairing pumps	$2 25
May	.	" 31 lbs. lead pipe	4 34
	16.	" 19 lbs. tin gutter	2 85
	20.	" 3 copper oil-cups	75
			$10 19

May 20th, 1874.
Rec'd payment.

HENRY BOSS.

Curtis, Fobes & Co., for dredge C. Fobes, to Henry Boss, D'r.

1874.		
May 29.	To repairing lamp	1 00
	" 2 large drip-pans, 1.00	2 00
	" 1 gal. oil-can	1 00
		4 00

Rec'd payment.

HENRY BOSS.

Not ready, so not entered when other bill was paid.

A No. 27.

Baltimore stove-house, 39 and 44 Light street. Inventors, patentees, & manufacturers of the diamond top-feeding illuminating fire-place heaters.

BALTIMORE, *May 20th*, 1874.

98 Mess. Curtis, Fobes & Co., for dredge Cha's Fobes, to Bibb & Co., D'r.

Terms cash.

After goods leave our hands they become the property of the purchaser; therefore, for damages, &c., the purchaser must look to the transporters for redress. When goods are ordered C. O. D., the cost of collection will be added.

To 1 #8 Emerald range & fix. & 2 f't pipe	31 00
" 1 ea. 6 & 8 q't En. saucepans for tea-kettle, &'	1 75
" & 1 oval steamer on H. B	2 50
" 1 sheet zinc	2 50
" G. I. head & stays, 6.00; 1 pat. deck-iron, 1.50	7 50
" labor putting up range, pipe, G. J. head, & deck-iron	1 50
	$46 75
	2 00
	44 75

Rec'd, Balt'o', May 21st, 1874, of Mess. Curtis, Forbes & Co., forty-six $\frac{75}{100}$ dollars, in full to date.
$46.75.

BIBB & CO.,
P'r BENTLEY.

A No. 28.

R. H. DIGGS. S. J. DIGGS. C. W. DIGGS.

BALTIMORE, *May* 28, 1874.

Mess. *Coats* & Fobes, dredge C. Fobes, bought of R. Diggs & Sons, dealers in lime, bricks, hay, straw, and horse-feed of all kinds, 258 and 260 S. Caroline street.

99	1 bbl. lime, 1.60	1 60
	1 " cement, 2.50	2 50
		4 10

Rec'd payment.

R. H. DIGGS & SONS.

A No. 29.

BALTIMORE, *May* 20*th*, 1874.

Dredge C. Fobes to P. M. Brown, d'r.

To 2 water-casks, containing 370 gallons; a gal., 5¼ c'ts; total .... $19 42 c'ts.

Received payment.

P. M. BROWN.

A, No. 30.

BALTIMORE, *Feb.* 23, 1874.

Mess'rs Curtis & Forbes to A. J. Hubbard, d'r.

	To 2 triple 15 M blocks, bushed	16 20
May 20.	" 4 hand spikes	4 00
	" 4 capstan-bars	4 00
		$24 20

Rec'd payment.

A. J. HUBBARD.

A No. 31.

100 Tabers' cabooses' lamps, deck-irons, stove-pipes, tin-ware, and outfits generally. Repairing neatly done.

BALTIMORE, *May 21st*, 1874.

Dredge Cha's Fobes & owners bought of D. B. Smulls' Sons, hardware, ship's galley & cabin outfits, 92 W. Pratt st.

36 lbs. gal. iron-pipe, 25	9 00
4 flanges, 30, 1.20; rep's to 2 lanterns, 80	2 00
4 galv'd lanterns, 1.25, 5.00; 2 setts k. & forks, 2.25, 4.50	9 50
Galley knife, 60; carver & fork, 1.00	1 60
1 doz. ea. iron tea, 40; & table spoons, 60	1 00
Cast*or*, 1.50; meat-saw, 1.30	2 80
Square, 60; side coffee-mill, 1.75	2 35
3-gall. can, 55; q't feeder, 40	95
Water-pail, 60; 4 vege*a*table-dishes, 40, 1.60	2 20
1 doz. heavy cups & saucers	2 00
1 " ea. dinner, 1.50, & tea plates, 1.25	2 75
Bean-pot, 40; ½ doz. large bowls, 87	1 27
5 molasses-cups, 85; sugar-dish, 50	1 35
Cream-pitcher, 35; water-pitcher, 65	1 00
Mince-tray, 80, & knife, 35; batter-kettle, 1.00	2 15
Large ladle, 50; cake-turner, 25	75
2 basting-spoons, 55; coffee, 1.75, & tea-pot, 1.25	3 55
Tin pan, 90; 2 funnels, 35 & 20	1 45
2 duff-moulds, 1.25, 2.50; flour-scoop, 75	3 25
Salt, 25; flour, 25, & pepper, 10, boxes	60
Flour-sifter, 30; 4 wash-basins, 35, 1.40	1 70
2 deep square pans, 40, 80; mess-pan, 40	1 20
Rolling-pin, 25; potato*e*-masher, 25	50
Cullender, 40; tin spice-box, 1.50	1 90
2 cabin-lamps, 1.00, 2.00; sett scewers, 25	2 25
101 Pat. balance, 50; bath-brick, .08	58
Skimmer, 30; hand saw, 1.75	2 05
Saw-knife, 75; 2 butter-dishes, 55, 1.10	1 85
4 meat-dishes, 3.20; salt-cellar, 15	3 35
6 engine-lamps, 35, 2.10; large soup-tureen, 2.50	4 60
Long sput-feeder, 60; large pan, 1.50	2 10
2 tin buckets, 85 & 55	1 40
2 jugs, 40, 80; reflector, 75	1 55
Rep's to bulk-head lamp	50
	$77 05

Rec'd payment.

D. B. SMULLS' SONS.

A No. 32.

Tho's H. Rice. **Cha's E. Rice.**

Inside iron strap-blocks, also ordinary iron and rope strap-blocks, mast-hoops, stearing-wheels, &c., constantly on hand.

Mess. Curtis, Fobes & Co., dredge C. Fobes, to Thomas H. Rice & Son d'r. Block and pump-makers, No. 4 Covington street. Vessels fitted out with despatch. Near Hughes, south side Basin.

May 20	To 2 sheares, 8½ × 4	6 00
	" 2 " 8 × 2	4 00
	" 2 " 7 × 1¾	2 50
	" rep's 2 blocks	1 00
	" 8 steel bushes	20 75
		$35 25

Received pay't.

T. H. RICE & SON.

102

A No. 33.

Supplies for engineers and machinists; also a general assortment of hardware, leather belting, gum packing, brass castings, grindstones, and ships' lanterns, &c., &c.

BALTIMORE, *May* 21, 1874.

Mess'rs Curtis, Fobes & Co., for dredge C. Fobes, bought of John Brown & Son, No. 10, cor. Pratt and Concord streets, five doors west of the bridge.

50 f't 2 in. 4-ply gum hose, 1.00		50 00
50 " 2 in. 3 " " " 80		40 00
		90 00
Less 20 %		18 00
		72 00
2 setts couplings & clamps, 4.00	8 00	
4 extra clamps, 75	3 00	
		11 00
		$83 00

Rec'd payment.

JOHN BROWN & SON,
Per C. KEMP.

A No. 34.

From T. H. Hanson's furniture & chair manufactory; counting-room and office furniture, feather-bed and mattress depot.

BALTIMORE, *May* 19, 1874.

Mess. Curtis, Fobes & Co., for dredge Charles Fobes, bought of Tho's H. Hanson, No. 11 S. Calvert street, (cor. German.) Terms cash.

11 small mattress', mixed, 2.50	27 50
6 bent-top wood cha	6 00
	$33 50

Rec'd pay't.

THO'S H. HANSON.

103

A No. 35.

BALTIMORE, *May* 18, 1874.

Paints, oils, cordage, canvass, twine, &c.

Dredging-machine Charles Fobes bought of H. Steffens, ship-chandler and family grocer, No. 26 Fell street. Terms .

1874.		
March 21.	10 lbs. sugar, 1.20; 4 lbs. coffee, 1.52; 1 p'k apples, 60	3 32
	4 cans milk, 1.20; 2 doz. eggs, 44; 5 lbs. butter, 2.40	4 00
	10 lbs. cod-fish, 70; 10 marcals, 80; 4 lbs. prunes, 60	2 10
	4 lbs. rice, 48; 10 lbs. crackers, 90; 5 lbs. haret, 60	1 98
	2 lbs. raisins, 36; 1 p'k onions, 70; 1 jar mustard, 25	1 31
	4 bottles J. powder, 64; 2 can tomatoes, 40; 1 gal. molasses, 40	1 44
	1 gal. vinegar, 35; 2 lbs. mince-meat, 26; ½ p'k beans, 45	1 16
	1 lb. tea, 90; 2 can' peaches, 50; 12 lbs. ham, 1.80.	3 20
	½ p'k salt, 15; 6 h. cabbages, 60; 2 box. ess. coffee, 8.	83
	½ bbl. flour, 6.00; 2 bottles lemon, 40; 4 lbs. cheese, 96	7 36
	2 bottles pickles, 80; 1 bottle halfour, 50; ¼ lb. nutmeg, 40	1 70
	2 bottles catsup, 60; ½ lb. pepper, 20; ½ lb. ginger, 20	1 00
		$29 40

Rec'd payment.

H. STEFFENS.

The within provisions had just been taken to dredge and were in addition to what had on hand.

A No. 36.

BALTO., *June* , 1874.

104 Curtis, Fobes & Co., to Geo. Mitchell, d'r.

To 1 black coat	5 00
" pants & vest	10 00
" cash	4 75
" satchell	1 75
" 1 fine shirt	2
" 2 undershirts	2
" blanket	1 50
" 2 neck-ties	1 00
" hat	2 50
" pair opera glasses	5 00
	$35 50

Lost by sinking of dredge C. Fobes, M'ch 25, '74.

A No. 37.

BALTO., *June* , 1874.

Curtis, Fobes & Co., to John W. Williams, d'r.

To 1 coat	6	00
3 p'r hose, 30		90
2 " drawers	2	00
1 pilot-cloth jumper	4	
1 p'r boots	6	
1 hat 2, cap 1	3	
1 p'r gaiters	3	
razor & set, 1.75; knife, 75	2	50
2 pillows	2	00
	29	40

Lost on dredge C. Fobes, M'ch 25, '74.

A No. 38.

105 BALT'O', *June*, 1874.

Curtis, Fobes & Co., to Warren Locke, d'r.

To 2 coats	15	
2 p'r pants	8	
2 vests	6	
2 p'r overhauls	1	50
2 frocks	1	50
1 p'r shoes	2	
3 shirts	5	00
3 p'r woolen socks	1	50
1 umbrella	2	
1 trunk	5	
2 feather pillows	4	
1 blanket	2	
	$53	50

Lost by sinking of dredge C. Fobes.

A No. 39.

Curtis, Fobes & Co., to Geo. Lord, d'r.

To 1 frock coat, lost on dredge C. Fobes	15	
1 flannel "	5	
1 pillow	2	
2 blankets	5	
2 p'r pants	6	
Overhauls & frock	6	
	39	00

106 EXHIBIT A II.

OFFICE B. & J. BAKER & CO.,
No. 2 CAMPBELL'S WHARF,
Norfolk, V'a, March 30th, 1874.

Messrs. CURTIS & FORBES, *No. 22 S. Broadway, Balt'o., Md.:*

GENTLEMEN: We have consulted together, & determined upon the enclosed estimate for raising your dredge. We will furnish you any or all of the material mentioned for the prices stated, or we will raise deliver her at the railway in Baltimore for the sum of forty-five hundred dollars, ($4,500.)

Yours, truly, &c. B. & J. BAKER & CO.,
Per KIRBY.

EXHIBIT B II.

Estimate of material-men, &c., for raising dredge.

Planet Mars, @ $25.00 per day.

Hoisting-engine, @ $20.00 " " ; @ half-rate when not used.

Diving apparatus & diver, @ $30.00 per day; @ half-rate when not used.

107 Heavy purchases, $10.00 per day; half-rate when not used.

Wrecking-steamer, with crew of 8 men & her general appliances, $100.00 per day; half-rate when lying still.

Levers, tog'les, & bearers, for 4 setts, for the job, $200.00.

Use of chain, including repairs, 2c. per lb.

2 steam-pumps, while in use, $30.00 per day; $10.00 per day while not in use.

4 ginns, with blocks, falls, &c., for each, $200.00.

8 sticks of timber for the job, $400.00.

Superintendent, $15.00 per day.

10 extra-good men & board, $25.00 per day.

Exceptions to report.

In the district court of the U. S., M'd district. In admiralty.

CURTIS, FOBES & CO.
vs.
SHIP AGNESE & TUG VIRGINIA EHRMAN.

The claimants of the ship Agnese except to the report of the master filed Sept. 29th, 1874, as follows:

1. Because said report finds that the libellants were deprived of the use of the dredge Fobes on the 26th of March, and allows damages for the loss of the use of said dredge on that day; whereas it appears by the evidence that the dredge was sunk during the night of March 26th, 1874. 108

2. Because the amount allowed by said report to the libellants for the expense incurred by them in raising the dredge is excessive and not supported by the evidence.

3. Because said report allows the libellants the sum of $2,310 for the use of the tug and scows of the libellants in raising the dredge, while employed on that work, and also allows said libellants the wages of the

officers and men of the dredge during the time the dredge was being raised, and during all the time the dredge was being repaired, and at the same time said report allows said libellants a large sum per diem for the loss of the use of the dredge from the time she was sunk until *she* her repairs were completed; whereas it appears from the evidence that had the dredge been employed at her usual work during all the time she was being raised and repaired, she could not have earned anything without the use of said scows and tug, and the employment of the crews; so that the allowance of damages for her detention includes the allowance of all the necessary expenses for her use during that period, among which are the value of the use of the tug and scows, the wages of the crew, and the running expenses of the dredge; and said expenses are in fact allowed twice by said report.

109 4. Because the amount allowed for damages for the detention and loss of use of the dredge is excessive and not supported by the evidence.

5. Because the whole amount of damages ascertained by said report is excessive and not supported by proof.

MARSHALL & FISHER,
For Claimants of the Agnese.

2nd decree.

JNO. B. CURTIS & OTHERS,
vs.
THE STEAM-TUG VIRGINIA EHRMAN, FREDERICK Ehrman & others, claimants, and The Ship Agnese, Cerruti Caldessandro, & others, claimants.

The report of Robert Lyon Rogers, esq., commissioner, to whom this cause was referred by the decree of this court, to state an account as by said decree directed, having been read and considered, and the evidence returned by him with the proceedings and other evidence in the cause having also been read and considered, and the arguments of the proctors for the respective parties having been heard, it is now, this 27th day of October, 1874, adjudged, ordered, and decreed that the libellants recover against the ship Agnese, whereof Cerruti Caldessandro and others are claimants, the sum of twenty-four thousand one hundred and eighty-four dollars and fifty-seven cents, as reported by the commissioner, with costs.

110 And it is further adjudged, ordered, and decreed that unless the respondents, claimants of the ship Agnese, shall, within twenty days from the date of this decree, pay to the libellants the sum hereinbefore decreed to them, with interest thereon from this date, and also pay the costs of this suit, to be taxed by the clerk, that the marshal shall sell the said ship Agnese, her boats, tackle, and furniture, to the highest bidder at public auction for cash, after having given five days' notice thereof by advertisement in two of the newspapers published in the city of Baltimore, and that he forthwith pay the proceeds of said sale into the registry of this court, to be disposed of according to law; and it is further ordered that the exceptions filed by the claimants of the ship Agnese to the report of the commissioner be, and the same are hereby, overruled.

WILLIAM F. GILES.

Order for appraisement.

In the United States district court in and for the Maryland district.

CURTIS ET AL.
vs.
AGNESE.

Ordered by the court, this 31st day of October, 1874, that the ship Agnese, her tackle, apparel, &c., be appraised under the exigency
111 of the eleventh admiralty rule, and that Capt. John L. Sanford, Basil S. Wellener, and Richard L. Ross be, and they are hereby, appointed appraisers to make said appraisement, and to make return of the same to this court.

WILLIAM F. GILES.

Warrant of appraisement and return.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

To John L. Sanford, Basil S. Wellener, and Richard L. Ross, esq'r's, greeting:

[SEAL OF D'T C'T.] Whereas a certain cause of libel named and produced before the district court of the United States in and for the Maryland district, on behalf of John B. Curtis, Charles Fobes, and George C. Fobes, against the ship Agnese, her tackle, apparel, and furniture:

The aforesaid court on this thirty-first day of October, A. D. 1874, ordered an appraisement of the said ship Agnese, her tackle, apparel, & furniture,

You are, therefore, by these presents authorized & empowered, jointly and severally, and strictly charged & commanded, that you faithfully and justly appraise the said ship Agnese, her tackle, apparel, & furniture, according to their value, and that you so appraise and
112 value the same, and that you duly transmit the said appraisement, subscribed by you, to the aforesaid court, together with these presents, with all convenient speed.

Witness the honorable William F. Giles, judge of our said district court, this thirty-first day of October, in the year of our Lord one thousand eight hundred and seventy-four.

JA'S W. CHEW,
Clerk Dis. C't.

Issued October 31, '74.

The undersigned appraisers, appointed by virtue of the annexed warrant of appraisement, report to the honorable the district court of the United States for the Maryland district that they proceeded to appraise and value the ship Agnese mentioned in the said warrant of appraisement, and find the same to be worth the sum of seventeen thousand dollars, U. S. currency.

J. S. SANFORD. [SEAL.]
B. S. WELLENER. [SEAL.]
RICHARD L. ROSS. [SEAL.]

Sworn to before me this 2 day of November, 1874.

R'T LYON ROGERS,
U. S. Commissioner.

Exceptions to appraisement.

In the district court of the United States for the Maryland district.

JOHN T. CURTIS ET AL.
vs.
THE SHIP AGNESE.

The libellants except to the appraisement filed and returned by
113 the appraisers in the above matter, for the following reasons:

First. Because said appraisement is wholly inadequate to the value of said vessel.

Secondly. Because B. S. Wellener acted as appraiser on the part of the libellants, instead of John T. Wellener, whom the libellants intended to appoint as their appraiser.

Thirdly. For other causes, which will be shown at the trial of the case.

S. K. TAGART,
J. N. STEELE,
W. F. GILES, J'R,
Proctors for Libellants.

Order setting appraisement aside.

In the district court.

JNO. B. CURTIS & OTHERS
vs.
SHIP AGNESE.

It is ordered this seventh day of November, 1874, that the appraisement heretofore made of the Ship Agnese be, and the same is hereby, set aside, and that, upon the evidence taken in court this day, her value is found to be $25,000, and that she be released on stipulation given in that amount, the securities to be approved by the court, or on the deposit of that amount being made in the registry of the court.

114 WILLIAM F. GILES.

From which said decrees so as aforesaid passed the owners and claimants of the Ship Agnese, by their proctors in open court here, pray an appeal to the next term of the circuit court of the United States for the fourth circuit, in and for the Maryland district, to be held at the city of Baltimore on the first Monday in November next, and to them it is granted.

And also the said libellants, by their proctors aforesaid, in open court here, have prayed an appeal (from the decree in favor of the steam-tug Virginia Ehrman) to the circuit court aforesaid, to be held at the time and place aforesaid, and to them it is granted.

Thereupon it is ordered by the court here that the record and proceedings aforesaid, with all things relating to the same, be transmitted to the said circuit court, and the same are hereby transmitted accordingly.

Respondents' appeal-bond.

In the U. S. district court for the district of Maryland.

CURTIS, FOBES & CO.
vs.
THE AGNESE & VIRGINIA EHRMAN.

115 Know all men by these presents that we, James Carey Coale &

Philip S. Chappell, of the city of Baltimore and State of Maryland, are held and firmly bound unto John B. Curtis, Charles Fobes, and George C. Fobes, trading under the name and style of Curtis, Fobes & Company, in the just and full sum of three thousand dollars lawful money, to the payment whereof, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, or administrators, or assigns, unto the said John B. Curtis, Charles Fobes, and George C. Fobes, their executors, administrators, and assigns, firmly by these presents, sealed with our seals and dated the first day of December, A. D. 1874.

Whereas Cerruti Callessandri and others, claimants of the ship Agnese, have prayed an appeal from the decree rendered by the district court of the United States in the above-entitled cause to the next term of the circuit court of the United States for the district of Maryland:

Now, the condition of the foregoing obligation is such, that if the said claimants of the ship Agnese shall prosecute their said appeal with effect, and shall well and truly pay all damages, interest, & cost' that may be adjudged against them by said circuit court, and the costs adjudged against them by the district court, should they fail to prosecute
116 said appeal with effect, then the foregoing obligation shall be void; otherwise to remain in full force and effect.

JA'S CAREY COALE. [SEAL.]
P. L. CHAPPEL. [SEAL.]

Signed, sealed, and delivered in the presence of—
A. M. CARTER.

Bond approved.

WILLIAM F. GILES.

Libellants' appeal-bond.

Know all men by these presents that we, George C. Fobes and Samuel M. Johnson, are held and firmly bound unto Frederick Ehrman, Lewis Ehrman, Thomas C. Cranmer, Stephen J. Fooks, Levin S. Fooks, William A. Johnson, Elizabeth Glasshoff, Isaac J. Anderson, & Harry Lee, owners and claimants of the steam-tug Virginia Ehrman, in the full and just sum of three hundred dollars lawful money, to be paid to the said Frederick Ehrman, Lewis Ehrman, Thomas C. Cranmer, Stephen J. Fooks, Levin S. Fooks, William A. Johnson, Elizabeth Glashoff, Isaac J. Anderson, and Harry Lee, owners and claimants of the said steam-tug, their certain attorney, executors, administrators, or assigns, to which payment, well and truly to be made and done, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly
117 by these presents, sealed with our seals and dated this twenty-first day of December, in the year of our Lord one thousand eight hundred and seventy-four.

Whereas lately, in a suit depending in the district court of the United States for the district of Maryland, between John B. Curtis, Charles Fobes, and George C. Fobes, libellants, against The Ship Agnese and the Steam-tug Virginia Ehrman, a decree was passed in favor of the said steam-tug Virginia Ehrman, from which said decree the said John B. Curtis, Charles Fobes, and George C. Fobes have prayed an appeal to the next term of the circuit court of the United States for the fourth circuit in and for the district of Maryland, to be held at the city of Baltimore:

Now, the condition of the above obligation is such, that if the said John B. Curtis, Charles Fobes, and George C. Fobes shall prosecute their said appeal with effect, and answer all costs if they fail to make their appeal good, then the above obligation to be void; else to remain in full force and virtue.

GEORGE C. FOBES. [SEAL.]
S. M. JOHNSON. [SEAL.]

Signed, sealed, and delivered in the presence of—
JOHN H. LOWE.

(Endorsed:) 21 Dec., 1874. Bond approved. William F. Giles.

118 In testimony that the foregoing is a true copy, taken from the record and proceedings of the district court aforesaid, in the cause aforesaid, I hereunto subscribe my name and affix the seal of the said district court, this twenty-first day of December, in the year of our Lord 1874.

[SEAL DIS. C'T.]

JAMES W. CHEW,
Clerk District Court.

Evidence taken at the trial in the district court and read in evidence in the circuit court.

HUTTON, recalled.

By M'r Steele:

Q. I want to ask you to *what* point out to the court and to us here, if it appears on this chart, the point where the channel begins. I want to know where the vessel going to take that would come into it.

A. That—indicating on the map—is the point.

Q. Where is the buoy?

A. There—indicating on the map—is the red buoy, and there is a calm buoy that is not shown on the map there. That would be down here, (indicating.) It is off here somewhere, (indicating.)

119 Q. Those red marks are buoys?

A. Yes, sir; those are red buoys.

Q. Leading to that channel?

A. Yes, sir.

Q. What I wanted to get at was what point possibly the vessel coming into that channel would strike them; where these calm buoys are, as you call them?

A. Yes, sir; generally come in there. That, I should suppose, was possibly a mile, or a little more than a mile. I do not know the exact position of the calm buoy. I should judge it was a mile, and probably more.

Q. A mile from which point?

A. From that point, (indicating on the map.) The calm buoy is a mile below the mouth of the excavated channel at this point.

Q. Will you be good enough to state to the court what, if you can form an estimate, would have been the difference in the expense between excavating that channel, allowing the dredges to remain there over night, and having them taken away and brought back the next morning to their place of work?

A. It is a difficult matter to estimate; I should put it at not less than thirty per cent.

M'r BEEBE. Your honor will understand us as objecting to that.

Q. I do not care to argue it.

120 After discussion on the part of counsel of the proposition stated in the question of M'r Steele, the examination of the witness was resumed as follows:

By M'r Steele. Will you be good enough to state whether this channel was completed, or whether you was still at work upon the last of March of this year?

A. We were still working on it.

Q. The portion of it which was completed was to the east of where these dredges were located, as I understand you?

M'r BEEBE. Col. Craighill says they have not worked at all. It was the first day they had gone down.

M'r STEELE. The portion of it which had been excavated laid between the buoys and the dredges at that point?

The WITNESS. Yes, sir; at that point.

M'r Wallis:

Q. That is to say, to the east of the location of the dredge?

A. Yes, sir.

M'r Steele:

Q. On the west of the dredge the channel had been excavated?

A. Not at that point.

Q. At that point the location of the dredge was upon the western edge of the excavated portion of the channel?

121 A. Yes, sir.

M'r Beebe:

Q. You were kind enough to say that you made personal soundings to show the condition of the natural channel each side of the excavated channel. Have you that in court this morning?

A. I said we had soundings on record outside of the channel which I had tested. Not all of them were my personal soundings.

Q. Have you tested them?

A. I have.

Q. Have you now the fruits of that test in court?

A. No, sir; I made no records of the fruits.

Q. Have you now sufficient recollection to give particular localities without the production of that record?

A. I do not know that I understand you exactly.

Q. I will endeavor to make myself understood. I understood you to say yesterday that you had sounded?

A. Yes, sir.

Q. On lines about 1,100 f't each side of this excavated channel, up and down?

A. I said several hundred feet.

Q. I beg your pardon. Several hundred feet, without determining the exact distance?

A. Yes, sir.

122 Q. Are you able to locate within those lines the exact place where the shallow water was, without the production of those soundings which you made or the record you made of your soundings?

A. Undoubtedly I can.

Q. Can you tell me what was the depth of water immediately off the point where you afterwards saw that this dredging-machine was sunk, on the west side of the excavated channel?

A. It was from 19 to 20 feet.

Q. And extending how far out on the line? How much did it extend out?

A. I have soundings for only probably five or six hundred feet.

Q. Well, as much as that. And how far up and down from the point where this dredge was sunk, did you say?

A. There was a shoal across the channel extending on the west side some distance, I think about three-quarters of a mile or a mile above.

Q. And then how far below, at any point below, where there was a shallow—where the water was shallow?

A. Yes, sir; one or two points below.

Q. How near was that to the point where this dredging-machine was sunk?

A. There was a point below, I suppose a quarter of a mile. I have the record with me.

123 Q. That is exactly what I asked, if you had it. That is the very thing I desire.

A. You asked me if I had all the soundings outside of the channel.

Q. I say that is the very thing I want, because that saves a vast amount of examination.

A. That (presenting maps) is the general map; this is the particular map.

Q. As I understand it, the particular map only relates to the soundings in the channel?

A. Yes, sir.

Q. Which is outside?

A. This relates to the outside.

Q. Is this accurate?

A. Yes, sir.

Q. Can you leave this here to be returned to you?

A. Yes, sir.

By the court:

That shows the depth of the water?

A. Yes, sir; in that vicinity, above and below.

M'r Beebe:

I' gives your soundings the test?

A. Yes, sir. It was made especially for the location of this channel.

Q. I understand, M'r Hutton, when you say you know it, you take it for granted you know it?

A. I say I have tested soundings on that map, and I know generally they are correct.

124 Q. So as to speak of them with reasonable certainty?

A. Yes, sir.

Q. Please to show on your chart the point where this collision took place. (The witness does so.)

A. Drawing the line right across the channel. That, of course, is approximate.

Q. That is about it?

A. Yes, sir.

M'r **Steele.** What was that?

M'r Wallis:

What did you say was the depth of that shoal?

A. 17 feet.

Q. How far did you say you think it was below?

A. Where the soundings were?

Q. Yes, sir.

A. My recollection of it without measuring it would be that it was from about a quarter to a half a mile.

M'r STEELE. Just point out where that shoal is a quarter of a mile below.

(Witness does so, and remarks that it had 17 feet of water on it.)

M'r STEELE. The shoal which he speaks of being a quarter of a mile below had 17 feet of water on it.

125 M'r WALLIS. I understood you to say that you did not locate these vessels yourself.

A. I did not put them exactly in position.

Q. You gave the directions for their location?

A. Yes, sir.

Q. To whom?

A. To M'r McCullough.

Q. What was his official position?

A. He was superintendent of inspectors—general inspector.

Q. Where did you direct them to be put?

A. I directed them to be put on the western edge—south cut.

JAMES J. COULTER, sworn:

By M'r Wallis:

Q. What is your occupation?

A. Pilot.

Q. How long have you been engaged?

A. About 34 years.

Q. Will you be good enough to state whether or not, near or immediately after the 25th of March of the present year, at the time of the collision which is the subject of the controversy here, you passed up or down the Craighill Channel?

A. The next morning.

Q. Coming up or down the bay?

A. Coming up the bay.

126 Q. On what vessel were you?

A. I was on the Italian bark called the Carlotta.

Q. What was her draft?

A. Her draft was 13 feet.

Q. In coming did you pass this dredge?

A. Yes, sir.

Q. What was her condition?

A. Mid-channel, I pronounce her.

Q. What was her condition; was she sunk?

A. Yes, sir.

Q. Mid-channel?

A. Yes, sir.

Q. Are you perfectly familiar with the channel?

A. According to the ranges.

Q. Are you familiar with the bearings of the channel according to the ranges?

A. Yes, sir.

Q. Were the lights burning when you came up?

A. It was day-time.

Q. Did you take the range when you came into the channel?

A. Yes, sir.

Q. Will you be good enough to state to the court whether or not this dredge, so lying sunk, was lying in the range?

A. She was as near in the range as I could judge. I went to the westward of her.

127 By the court:

What were you drawing?

A. 13 feet.

M'r WALLIS. He was coming up in the Italian vessel.

By the court:

Sailing-vessel?

A. Yes, sir.

M'r BEEBE. He was piloting the bark.

By the court:

And you passed to the westward?

A. Yes, sir.

M'r WALLIS. He says she was lying in mid-channel.

WITNESS. As near as I could judge.

Q. State whether or not, in coming up with your vessel, you were inside of the channel yourself, in the Craighill Channel?

A. I was rather to the westward of it, according to the ranges.

Q. This vessel, according to the ranges, as well as you can judge, was lying just in the middle of the channel?

A. As well as I could judge.

By the court:

128 I' coming up you passed outside of the channel—westward of the channel?

A. Rather to the westward side.

Q. How much?

A. I cannot say that.

Q. How wide is the channel just there, to test your knowledge—the Craighill Channel proper?

A. I cannot say.

Q. What do you think?

A. Probably about 150 to 200 f't.

Q. Its width is just that, according to your calculation?

A. At best water.

Q. What was the water when you came up?

A. That I do not know.

Q. You do not remember?

A. No, sir.

M'r Steele:

When you say the vessel was sunk in mid-channel, do you mean in the middle of the channel actually excavated, or in the middle of what is called the "Craighill Channel?"

A. The middle of the "Craighill Channel" of the best water.

Q. Do you mean by that middle of the channel actually excavated—that had been dug out?

A. Yes, sir.

Q. Can you state how far from the line of buoys the dredge was lying?

129 A. Well, no; I cannot. I did not take particular notice at the time I passed.

Q. You do not know, therefore, how far the dredge was lying from the buoys that mark the western edge of the channel?

A. She might have been lying 50 yards.

By the court:

From where?

A. From the buoys.

M'r STEELE. That would be 150 feet?

By the court:

How near to it did you pass?

A. Right alongside of her.

Q. In speaking of the Craighill Channel, do you always speak of it as the channel that has already been actually excavated, or as the general channel there that has been marked out and called the "Craighill Channel?"

A. The one that has been excavated.

Q. And you speak of that part of it only that has been excavated?

A. The whole channel through, from the commencement to the finish of it.

Q. My question was, there was a portion of it excavated; we will suppose 200 f't, for instance, at that particular point. When you speak
of the Craighill Channel, do you mean a channel only 200 feet
130 wide, or do you mean the whole body of deep water that may lie
adjacent to the part that has been excavated?

A. The channel of 200 f't wide that has been excavated.

Q. I understand it has been, in point of fact. You used the words "Craighill Channel;" I want to know whether you mean only that which has been excavated; in other words, suppose a width of 400 f't there, the knoll having been excavated that formed a part of it, leaving 400 f't of water of a depth of 24 feet?

A. It has never been finished.

Q. Would you call that the whole of the channel, although only a part excavated?

A. Only the part excavated.

Q. If there was a part naturally as deep, or deeper, than that which had been excavated, would you not call the deep part a part of the channel as well as the excavated part?

A. Decidedly so. That is the main part of the channel.

Q. You had not seen where this dredge was lying before she sunk?

A. No, sir.

M'r Beebe:

I want to ask you one or two questions. Have you got that paper that was put in yesterday as evidence? Did you take your ranges from that notice coming from the Light-House Department?

A. Yes, sir; generally.

131 Q. When you speak of your ranges, on that day as you came
up, are those the ranges of which you have spoken?

A. Yes, sir.

Q. Were those ranges intended to represent the middle of that excavated channel?

A. Generally.

Q. The center of this is all that excavated channel?

A. Yes, sir; those lines.

Q. In the day-time you see the things in which the lights are placed?

A. Yes, sir; the beacons.

Q. And that is the way you judge of where this dredge was lying?

A. Yes, sir.

Q. Now let me see if I understand you aright about the fact as to whether you got out of the excavated channel in passing by this dredge, and went to the westward of this excavated channel—whether you were inside the western edge?

A. I was on the western edge of it.

Q. Were you outside or inside of it?

A. On the outside of it.

Q. And how far do you think you had got outside of it in passing along by where the dredge was sunk?

A. A very short distance.

132 Q. Very close to the edge?

A. Yes, sir.

By the court:

Are you familiar with the depth of the water along there to the westward?

A. I cannot say that I am.

Q. Your vessel drawing 13 feet?

A. Yes, sir.

Q. You do not know how far that depth of water extends to the westward, do you?

A. No, sir.

M'r Beebe:

That leads me to ask another question, if your honor pleases. How far would you think it prudent and safe to take a vessel drawing 14 f't and six inches of water, outside of the ship-channel, outside of this excavated channel, to the west?

A. Well, I would not like to go any was out of that channel to westward.

Q. Not with a vessel drawing 14 feet six inches?

A. No, sir; it is very lumpy.

Q. Do you give the same signification to the lumpiness—to "lump"—that Col. Creighill did, to wit, that it means shallow spots?

A. Yes, sir; knolls.

133 Q. When you strike the natural channel you strike these lumps of ground; when you strike the natural ground, which has not been excavated, you strike lumpy ground?

A. Yes, sir; that which has not been excavated.

Q. And you do not think it is prudent to go out into that with a ship drawing 14 feet 6 inches?

A. No, sir; I would not.

M'r Steele:

You stated to the court just now that you did not know much about the depth of it to the west of the channel?

A. He asked me if I was acquainted with the depth of the water in the channel.

Q. West of the channel, he asked.

By the court:

I did not say in the channel; I said westerly of it. I asked if you knew the depth of the water westward of the channel; how far you extended; and you say you went to the western channel and your vessel drew 13 feet. I asked you if you knew how far, still going west from the channel, that depth of water extended, and you replied you had no knowledge of the depth of water there.

A. Not in the channel.

Q. Outside of the channel?

A. I misunderstood you.

Q. Then I repeat the question. You say that in coming up you passed to the westward of where this vessel was sunk, this dredge

134 was sunk, and you passed on the outside of the channel—on the western side of the channel?

A. Yes, sir.

Q. And your vessel drew 13 feet of water?

A. Yes, sir.

Q. You passed not in the channel, but outside of it?

A. Yes, sir.

Q. Now my question is, how far westward does that depth of water continue? Do you know?

A. It was very lumpy there—irregular.

Q. How deep is it on the lump?

A. It is as little as 10 or 11 feet.

M'r Steele:

Did you ever make soundings of it?

A. I have in my time.

Q. When?

A. Some years ago.

Q. Close by this point—anywhere where this dredge was lying?

A. I cannot exactly say at that part of it.

Q. If at that place you knew there was 19 or 20 feet of water for 200 or 300 f't to the west of the channel, you would have no difficulty in getting that vessel of 14-feet draft through that water, would you?

A. Not a bit, if I knew it was there.

135 Q. You stated to the court now, in answer to his question, that you did not know the depth of the channel?

A. Not exactly.

Q. You thought that when you said you did not know, the court asked you the question, what was the depth of the water west, and you replied, you did not know. You mean you do not know the depth of the channel. You misunderstood the question of the court?

A. Yes, sir.

Q. You knew the channel had been excavated to the depth of 24 feet, didn't you?

A. So reported.

Q. In speaking of the question of prudence, do you think it would be more prudent to go up along by the buoys with 24 feet than to go on the westward side of the excavated channel, where you did not know exactly what the depth was?

A. Certainly so; that is the way we run.

Q. I thought you said you run to the westward side of the channel?

A. I had to run on account of the dredge being there.

Q. If the dredge had not been there in the middle of the channel, you would have gone up the *the* channel by the buoy, where there was 24 feet of water?

A. Yes, sir.

136 Q. That would have been the most prudent and proper route to take?

A. Yes, sir; I sailed 21 feet out of the channel.

WILLIAM J. MCCULLOUGH sworn.

By M'r Steele:

Will you state to the court whether or not you were the general inspector of steam-dredges which worked in the Creighill Channel in March?

A. Yes, sir; I was.

Q. Was it a part of your duty to locate the dredges at points where they were to work?

A. Yes; that was my duty.

Q. Will you be good enough to state to the court whether or not on the 25th of March, at the time of this collision, you located the dredge Theodore Fobes, and state further, if you please, where located, whether in the middle or the edge of the channel, and what edge of it?

A. Yes, sir; I located the dredge.

Q. Will you please state where she was located?

WITNESS. The distance from the buoy, you wish to know?

COUNSEL. I want to know in reference to the edge of the middle of the channel, or what part of the channel was she located?

137 A. From the line of the buoys to the eastern corner of the machine. I want you to understand when I say in reference to 197 feet——

By M'r Wallis:

Q. From the line of the buoys to the eastern side of the machine?

WITNESS. Yes, sir; and at that point the dredging was 240 feet wide. You have got to add the width to the cut under the machine.

M'r Wallis:

At that point how wide was it?

A. 240 feet. The entire width of the dredged channel at that point, under the machine 43 feet, and 197 feet between the machine and the buoy, making 240.

Q. 43 feet is the width of a cut as they go on?

A. Yes, sir; that makes 240 in all at that point.

Q. She was located there to work?

A. Yes, sir; that was her intention. That was her place or point for work.

Q. That channel had been all excavated 197 feet, completed?

A. Yes, sir.

Q. She was then on the western edge?

A. She was working westward from the line of buoys. What was eastward of the machine had been taken out at the width I gave at that point where that machine lay.

138 Q. So that she was on the western edge of the channel and as actually excavated, and was excavating a cut of 43 feet on that western edge?

A. Yes, sir; on a cut which she laid as far as the length of her extended was 240 feet. When it came in front of her the cut was 197 feet, just as I described it.

Q. I understand she was cutting this 43 feet that you mentioned; that was what she was engaged in?

A. Yes, sir.

Q. She was not then in the middle of the channel as exca'ted?

A. No, sir.

Q. Was she put in this position on the western edge by your order and direction?

A. Yes, sir.

Q. I understood M'r Hutton, who is assistant engineer, gives direction where the tugs are to be placed, and you place them?

A. Yes, sir.

Q. They were placed there in conformity with his directions?

A. Yes, sir.

Q. At what hour of the day did you have her placed in this position?

A. I do not know that I could tell exactly; somewhere from 3 to 5 o'clock.

Q. What were your directions to those having charge of the dredge, to take the dredge away at night and bring it back in the morning?

139 M'r Beebe. I object to the question as leading.

M'r Steele. I' reference to that subject, I put it both ways; I cannot put it more fairly.

M'r Beebe. I think you can. I think he can tell what directions he gave, and to that question we object; we do not stop to argue it.

M'r Steele. I will ask him if he gave any directions at all.

By the court:

The proper question is, did you give him any directions at all? and, if so, what were they?

M'r Beebe. That is it.

M'r Steele. On what subject?

M'r Wallis. As to the location of the vessel.

The Court. As to the dredge.

M'r Steele. He has already told us he was directed to locate it there, and did locate it there himself.

By the court:

Did you give them any further directions?

A. No more than where I placed them, I wanted them to remain there for the protection of the stakes. The line of stakes dredged by, on the work.

M'r Beebe. I did not catch that.

A. In placing, we excavate by a line of stakes, and I have always considered it necessary to keep them on the working ground for

140 the purpose protecting the stakes.

Q. That is not the point. What did you say about it, if anything?

M'r Steele:

You consider it necessary to keep them in position to protect the stakes?

A. Yes, sir; on the line of stakes we work by. We work by stakes directly up and down, leaving the dredge behind the stakes. It is a protection to keep vessels and tug-boats off. We are compelled to do that.

The court:

Then remain in that position until you cut that section out, and then the stakes are past and you go on?

A. Yes, sir.

Q. So that if I understand you, the dredges are directed to remain to protect the stakes until the work of that section is done?

A. Yes, sir. I have had experience, going on three years, and I find it very necessary to——

M'r BEEBE. You were not asked that question; when you are asked we will get to it.

WITNESS. I believe the court wanted me to explain what I knew about it.

M'r STEELE. Yes, sir.

Q. Are the stakes liable to be knocked down by vessels coming by them if the dredges are not there?

A. Yes, sir; they protect the lines of stakes to work by.

141 M'r Tagart:

You stated they had been knocked down frequently.

A. O, yes, sir; frequently.

M'r Steele:

Q. While you are on the stand I will ask you to also state to the court the position of the Craighill, the dredge which was lower down.

A. The distance apart do you have reference to?

Q. How far apart and on what part of the channel was she located; upon that part of the channel where she was at work?

M'r Wallis:

Q. Was the Craighill the one lowest down?

M'r STEELE. Yes, sir.

The witness:

A. Where the sunken dredge lay, they were about a half a mile apart, and the Craighill laid some 43 feet eastwardly of the Charles Fobe'.

Q. They were not both on one cut. The Craighill, then, on the cut she was, was at a cut further east?

A. Yes, sir.

M'r Wallis:

Q. How far apart did you say they were?

A. The sunken dredge, when she was struck, was nearly about half a mile apart?

M'r Wallis:

Q. And 43 feet to the east?

The court:

142 You say when they were assigned their work, the Craighill and the other dredge was 43 feet east of the Charles Fobe'?

A. Yes, sir.

M'r STEELE. Not alongside, but half a mile further off, but her position one cut more east than the cut the other one was at work on?

The court:

Then they were a half a mile apart?

A. Yes, sir; where she lay where she was sunk at was about a half a mile apart.

Q. From the Craighill to the Charles Fobe'?

A. Yes, sir; near about a half mile.

M'r BEEBE. Give the names of the three dredges.

M'r Steele:

I want to understand distinctly the position. The Craighill, at the distance you have described from the Fobe', was about 43 feet, being on an adjoining cut 43 feet more to the eastward of the Charles Fobe'?

A. Eastward of the Fobe'.

Q. Did you see the position of the Craighill yourself? Did you see that she was in about the position you desired to have her in?

A. Yes, sir; as I usually done, I looked down the line of stakes. I always set them by a line of stakes.

Q. You saw she was in her position?

A. Yes, sir; in her position, and as near as was required.

143 Q. Can you state upon this map about where would be—what do you call it—the calm-buoy, the point where this channel begins?

A. The calm-buoy would be at a distance of——

Q. How far was it from the place of collision? Can you give us some idea of that?

A. Somewhere about three miles.

M'r Wallis:

The collision, then, was some three miles from the mouth of the channel?

A. Yes, sir; somewhere about three miles, as near as I can come at it.

Q. Is the calm-buoy the——

A. Yes, sir; near the centre of the channel, as it is supposed to be.

Q. Vessels coming into that channel and coming up the bay, they come to it at the calm-buoy?

A. Yes, sir; that is the supposition.

Q. That is where the channel begins?

A. Yes, sir.

Q. The channel from the calm-buoy up to the point here where it turns to come up to the river is nearly straight?

A. Yes, sir; it is intended to be straight.

The court:

You saw the position of the dredge where she was at work each day?

A. Yes, sir.

Q. You saw her afterwards when she was sunk?

144 A. Yes, sir.

Q. You were not on board?

A. No, sir.

Q. You saw her when?

A. The next morning.

Q. Did she sink right at her stakes from where she was, or was she slewed out—carried away by the blow?

A. She was slewed out at a distance from 800 to 1,000 feet from where she was struck.

M'r Wallis:

Slewed from 800 to 1,000 feet. Do I understand you to say that?

A. Yes, sir; from 800 to 1,000 feet from where she was struck.

Q. What do you mean by slewed?

A. Well, sir, she was laying at her anchors when the ship struck; the anchor was either slacked down, or parted, or came right down the reverse of her anchoring ground.

M'r **Steele.** We will see more fully into that when we come to the testimony as the place of collision.

M'r **Wallis.** Yes, sir; but I want to get at what he means.

M'r **Steele.** In reference to the question just been asked here, there is a diagram made by this witness that will explain it fully.

Q. Was this made by you?

145 A. Yes, sir.

(Witness here explains what he means by the diagram.)

The court:

This was her position. Do I understand you correctly? You say that here she was upon the west side of the channel so as to be in readiness for a further excavation?

A. Yes, sir.

Q. Do I understand you to say she was 43 feet from the channel as then cut?

A. As then cut.

Q. You do not include the 43 feet as a part of the channel excavated?

M'r STEELE. She was engaged in excavating that 43 feet; 197 feet actually excavated the full depth.

M'r WALLIS. We have been understanding him as——

M'r STEELE. No, sir; I have asked him the question and he stated the precise distance, 197 feet.

M'r BEEBE. He has not yet given the distance of the excavated channel.

M'r STEELE. Yes, sir; he has.

The court:

What is the depth of that excavated channel?

A. The depth I gave you at this point, 240.

M'r WALLIS. That is the width.

The court:

What is the depth of that excavated channel, and the depth of water where they did the work?

146 Twenty-four feet.

Q. What is the depth from here out?

A. It will range from 19 to 20 f't.

M'r Beebe:

Outside of that, was that the natural channel?

A. Yes, sir.

Q. No excavations outside of that?

A. No, sir.

M'r Steele:

Are you acquainted with the depth of water to the range of the channel where this collision occurred?

A. I do not profess to know anything westwardly of the 400 feet, positively, at that point, or any other point that is outside of our limits.

M'r WALLIS. What 400 feet?

M'r BEEBE. I suppose 400 feet that he had actually sounded. I intended—it was to excavate to the width of 400 feet, and to that you confined yourself?

M'r Steele:

It was excavated to the width of 197 feet?

A. Yes, sir.

Q. From that 197 feet out, then, supposing your knowledge to extend only 400 feet, there would be 203 feet more, or adding the 43 feet to 197 would make 240; then there would be west of the dredge of the 400 feet you mentioned 160 feet. What is the depth of that?

147 A. From 19 to 20 feet.

Q. So at the place where this collision occurred you can state positively and distinctly that there was from 19 to 20 feet of water to the west of the channel extending 160 feet west of the dredge?

A. Yes, sir.

Q. About how far up the ground did those depths extend?

A. From where the sunken dredge lay, a half a mile each way.

Q. What is the nearest shoal place below, taking the point where the vessel was sunk?

A. Half a mile.

Q. What is the water on that?

A. 17 feet.

Q. Have you any knowledge yourself of whether these dredges were supplied with lights?

A. I could not say as to the condition of the lights that night. They were supplied with lamps, but how they were that night I could not say.

Q. You were not out there that night?

A. No, sir.

Q. They are supplied with lamps?

A. Yes, sir.

Q. Where were you that night?

A. I in Balt.

Q. Do you recollect what sort of a night it was?

148 A. Bright starlight night. I considered it a' fine a night as I wish to see.

Q. Any moon?

A. I could not say.

Q. You do not know whether there was a moon or not?

A. I could not say positively. It was a pretty night, though; as beautiful a night as you would want for the time of the year.

M'r Beebe:

Did you go down with the dredges?

A. Yes, sir.

Q. How many dredges were there?

A. Three.

Q. What were their respective names?

A. Colonel Craighill, Charles Fobe', and General Thom.

Q. Which one did you go down on?

A. I believe I was on the Fobe' when they started down. I did not go all the way with her. I did not stay on any particular machine.

Q. I understand; I only want to get your particular action on this day. Now, which was the one located nearest to the 7-feet knoll?

A. General Thom.

Q. What position did she occupy in the channel?

A. Well, sir, she occupied nearly the same position that the others did.

149 Q. I understand; but was she more to the westward or more to the eastward?

A. No, sir; I cannot say that she was. I could not state the exact number of feet.

Q. You cannot locate her—whether westward or eastward of the Fobe'?

A. I judge near about on the same line.

Q. If you cannot state, I would rather you would not guess at it. Which was the first one that anchored?

A. I could not say positively about that.

Q. What was the width of the excavated channel at the point where the General Thom was located?

A. Well, there was no direct width. All that at the point where she was had been excavated in lumps, shell-bars, and shoals.

Q. No particular cutting?

A. No, sir.

Q. Had that channel any particular width where she was located?

A. Yes, sir.

Q. What?

A. 400 feet.

Q. Then that had been excavated to the width of 400 feet?

A. No, sir. Only the lumps; only the hard mud-bottom.

Q. But that left it deep water?

150 A. I cannot say that, because there was soft material in there that had not been interfered with.

Q. How far below that was the Fobe'?

A. About a mile.

Q. Between the General Thom and the Charles Fobe'?

A. Yes, sir.

Q. Now to the northward of the Charles Fobe' the channel had been excavated 240 feet in the neighborhood where she was?

WITNESS. To which side?

Q. To the northward, above it; between her and the 7-feet knoll. To the northward of her the channel had been excavated to the width of 240 feet?

A. No, sir; a certain portion, not all. That I answered a few minutes ago.

Q. The part that was immediately in the rear of her?

A. In the rear of her you may say a 1,000 feet was excavated.

Q. We will take that. Then she commenced at the point where the excavation had stopped?

A. Yes, sir.

Q. And for that 1,000 f't the channel was 240 feet that had been excavated?

A. Yes, sir.

Q. But the channel—what was called the Craighill Channel—was how wide?

A. 400 feet; would be when completed.

151 Q. But you call it 400 feet even before the excavation had been made?

A. That was the intention, to make it that distance.

Q. Were not these range-lights placed with a view to its being 400 feet in width?

A. I believe that was the intention.

Q. In other words, these range-lights were intended to be in the centre of a 400-f't channel?

A. Yes, sir; that was the intention, I believe.

Q. You say the other was placed to the eastward—the Craighill was placed to the eastward of the Fobe', and about a half a mile below, her width to the——

WITNESS. Understand me. Where the sunken dredge, about a half a mile——

Q. That is, the Fobe'?

WITNESS. And when they were placed in position they were about a fourth of a mile. Understand that. There are two positions to be taken into consideration.

Q. I am talking about the way they lay that night and before the collision.

A. They were about a quarter of a mile apart.

Q. And not a half-mile?

M'r STEELE. That is the way he stated all along.

M'r Beebe:

Maybe he did. I want to understand him. I am only stating what I supposed he said. And her position was her width outside, or to the eastward, of the position of the Fobe'?

A. Yes, sir; 43 feet.

152 Q. That is her cutting width?

M'r Wallis:

Which was that?

A. The Craighill.

M'r BEEBE. Then what was the length of the hawser that was down at the Fobe'? If you know, state; if you do not, I do not want you to guess at it.

WITNESS. The length 'at was paid out, or the length she used?

Q. I want the length of the hawser that was paid out when she came to anchor, ready to cut, and how much hawser had she paid out?

A. I did not measure it.

Q. Then you do not know?

A. It is only a supposition.

Q. Do you recollect the weight of her anchors?

A. No, sir.

Q. Had she one anchor directly astern?

A. Yes, sir.

Q. Two anchors, with the hawsers, started from the forward part of the bow and the cutting part, and ran back like wings?

A. Ran from the aft end forward. That is the way they put them out.

Q. Was it the aft end?

A. Yes, sir.

Q. And not the forward end?

A. No, sir.

153 Q. Where did she come, ahead or astern?

A. At the head.

Q. Then it was from her quarter-line, and not from what you might call her bows, that these hawsers started or were made fast?

A. Yes, sir.

Q. And they went out in the form of wings?

A. Yes, sir.

Q. But you cannot tell how far they went?

A. No, sir.

Q. Then, what time did you leave them that night?

A. Between four and five o'clock.

Q. Did you leave them before they had taken their position?

A. Oh, no, sir.

Q. Before they were anchored and had taken their position and were ready to cut?

A. They were anchored and had taken their position ready to cut.

Q. Had they cut any before you left?

A. No, sir.

Q. Then you came up to town?

A. Yes, sir.

Q. When you next saw the Fobe', and knew of her, she was sunk?

A. Yes, sir.

Q. When was that?

154 *Q. When was that?*

A. That was on the morning of the 26th of March.

Q. What effect did the collision have on the hawsers; you have no personal knowledge——

A. I did not say anything about that.

Q. I say you have no personal knowledge?

A. No, sir; as far as the hawsers, anchors, and lines, that does not concern me.

Q. Do you know what strength of tide there is there?

A. No, sir; I could not say.

Q. Do you know, at the time of the collision, whether it was ebb or flow?

A. No, sir.

Q. Do you know whether there was a current at all at that time?

A. Nothing more than the usual tide, I believe. I could not state positively about that.

Q. Have you any idea?

A. No, sir.

Q. Whether they were run'ing in or out?

A. No, sir.

Q. You say that from your diagram the next morning she was in a different position from what she had been when you left her—in a different position when you left her; was she further north or further south?

A. Further north.

155 Q. Did you then know whether she had parted any hawser?

A. No, sir; I did not know positively that she had parted any.

Q. How was she got into that position; could you tell?

A. No, sir.

Q. If she had 400 feet of hawser out, can you tell me how she would swing in 197 feet? What was her length?

A. Between 80 and 100 feet; I could not tell exactly.

Q. How far from her stern was it these two hawsers started?

A. From 4 to 6 feet.

Q. Then in addition to length of hawsers, there was the whole length of the boat?

A. Yes, sir.

Q. Can you describe how she could swing in that position of 197 feet and go down 1,000 feet?

A. I do not know that I could, only in the length of the line; that is all we go by; swing by the wind and tide, if there was any tide; there was wind sufficient to swing around.

Q. Could she swing in that space if the anchors failed?

A. The lines must have been cast off or dragged, one or the other; that I cannot say anything about.

Q. Did you make, at the time, any observation as to what she was abreast in order to determine the extent of the channel?

156 A. Yes, sir.

Q. What?

A. We have to take objects to determine our points to work by; have to do it.

Q. Now we will come to the point about her lying in position at night. Not changing at night so as to get further out of the channel, the stak's would remain; she would not pull up or remove any of the stakes by removing, would she?

A. No, sir; not at all; she would not.

A. Then if she could swing down 1,000 feet by simply pulling the spud out which kept her steady, would there be any trouble at all in pulling her with a breast-line until she was entirely out of the channel?

A. If you move the machine entirely out of the channel I think it would take some of the anchors; you would have to take a portion of the anchors out of——

Q. Why? Do you know any of the anchors were taken up when she swung 1,000 feet?

A. No, sir.

Q. She had a breast-line out, to which an anchor was attached?

A. I do not know that she had at that time; as I have stated before, I do not know whether the——

Q. That is for the purpose of keeping the wind from operating on her sides?

157 A. Yes, sir; as I stated before, I do not know whether the lines were cut or paid out, or anything about it.

Q. I am only speaking of the general fact that she had a breast-line.

A. I do not know whether it was out that night or not.

Q. I am not speaking of that night; I am speaking of the fact whether she carries a breast-line.

A. She does when it is necessary.

Q. If she could swing down 1,000 feet with the mere action of the wind or tide, would there be any trouble, by the aid of this breast-line, in pulling her out of the channel, and to have her remain at her anchor; just simply pulling up the spud, and pulling her around, so she would go entirely out of the channel?

A. I do not think that question could be answered by any one, because I do not know whether the breast anchor-line was out.

Q. Suppose there was no breast anchor-line out at all, but suppose they simply took the breast-line and pulled her out of the channel and then stuck the spud down, was there any trouble about that?

A. Oh, no more than labor, of course.

Q. It was only the labor, and that was a short job, was it not?

A. It was not a very long job.

158 Q. Then when she was pulled back, she would be exactly in position again, would not she?

A. She ought to come when she was pulled back. That might occupy but a few moments of time.

Q. It was owing to the weather altogether about that?

A. Suppose it was blowing a gale?

Q. But I am talking of ordinary circumstances; either way; if the wind were blowing it would have to pull her one way or the other.

(No response from witness.)

Q. Now, nothing was said by you to them about keeping in position, was there?

A. A general order.

Q. Was not that the first time that those dredges had gone to work under that contract?

A. No, sir; I think not.

Q. General Craighill says that that was the first day they went down under that contract; is that true or not?

A. It was to finish up their contract, I believe.

Q. You might have misunderstood him, or asked him questions before he answered questions which you put to him.

Q. Don't you apologize for Colonel Craighill; he can take care of himself.

Mr. WALLIS. You can deepen his channel, I think.

M'r. Beebe:

159 Did you give to them any order to remain in the position you had placed them that night?

A. I cannot say that I positively did; it was a general understanding order.

Q. When did you give it? Did you ever give it?

A. Yes, sir?

Q. When?

A. I suppose we have given it a dozen times while they have been at work for me.

Q. How long have you been to work there?

A. That I cannot say.

Q. How long anterior to this time had they been immediately anterior?

A. I could not say exactly.

Q. A month?

A. I could not tell.

Q. Years?

A. I could not say.

Q. Now, there was this collision and that boat was sunk; that left two dredging-machines, did not it?

A. Yes, sir.

Q. They completed the work?

A. I suppose so.

Q. Now, did not they each night after that pull out of the channel?

A. No, sir, not every night; they did not.

Q. Did they any time?

160 A. I cannot say they did.

Q. Do you know whether they did or not?

A. No, sir; I do not.

Q. Were you down every day?

A. I was down every day, but not every night.

Q. Did you remain there at any time when they knocked off work?

A. Yes, sir; I have.

Q. Can you tell me whether at any time when you were there they did pull out of the channel?

A. No, sir.

Q. You do not know whether they did or not?

A. No, sir.

Q. Now, at the point where she sunk—where you saw her, not where she sunk—was her position to the bank changed any? You say that you saw her the next morning. You have given us the position as to the western bank or side of the channel. Had her position in regard to that changed any when you saw her the next morning?

A. Yes, sir; she was lying further to the eastward.

Q. Did not that bring her more to the centre of the channel?

A. It brought her more in the centre part of the excavated channel.

Q. Do I understand you to say you considered the whole 400 feet channel?

161 A. I consider it, when complete, 400-feet channel.

Q. When I say excavated channel I mean the portion already excavated; but when you speak of the channel, do you refer to the whole 400 feet?

A. Yes, sir; when I speak of the whole 400 feet I do.

Q. I mean when you speak of the channel without using the word "excavated." Then you mean 400 feet?

A. Yes, sir.

Q. As I understand you to say, you say you understand the lights had been placed in reference to the 400 feet?

A. I do not know what the intention of them. The lights were not under our jurisdiction.

Q. Take this excavated channel from there and see. Undoubtedly you arranged those lights?

A. I helped to do it.

Q. Nobody can know better than you whether you intended to represent the centre of the 400 feet.

A. They were intended to represent the centre of the 400 feet.

Q. And you helped to arrange them yourself?

A. Yes, sir.

Q. Now, then, you say the next morning it was more towards the center of the excavated portion of that 400 feet?

A. Yes, sir.

162 Q. Did you make any measurement, or did you form any judgment, of how much further she was to the eastward?

A. I did not make any measurement; only formed an idea by the line of stakes.

Q. Did you at any time form a judgment as to how much she was further to the east of the stakes?

A. She would be at the distance of from 50 to 75 feet.

Q. That was your judgment at the time?

A. Yes, sir.

Q. Then that carried her her width, and a little more to the east.

Q. How long has this spud, of which mention has been made—how far does that project above the vessel's cheeck?

Q. Witness. When down or up?

Q. When down.

A. When down, from one to eight feet.

Q. On the next morning what part of her did you see?

A. I saw the "bucket-poles" and a portion of her "A" frame.

Q. State what that is.

A. The "A" frame is shears to hold buckets.

Q. It runs up in this way? (indicating.)

163 A. To connect the bucket and the boom.

Q. That is stationary, is it?

A. Yes, sir; the "A" frame is stationary.

Q. It was the top of that you saw?

A. Yes, sir.

Q. And the top of these bucket-poles?

A. Yes, sir.

Q. Those—indicating by means of a photograph—are the poles of which you speak?

A. Yes, sir; and this—indicating on the same photograph—is the "A" frame, directly back.

Q. Is that the front or the stern?

A. That is what we consider the bow.

Q. That is where the bucket is?

A. Yes, sir.

Q. Then abaft of that is where the shears or frame is that holds the buckets?

A. Yes, sir.

Q. About how far is that abaft of these bucket-poles?

A. That I cannot say.

Q. Is that abaft the centre of the dredging-machine?

A. No, sir; I should not suppose it was. That I did not have anything to do with.

164 Q. I did not know but what you had been on board so much that you might be able to form a judgment about it.

A. No, sir.

Q. At any rate, between her bows as she lays and this bucket-frame of which you speak, are these poles?

A. Yes, sir.

Q. As you look aft, you first see these poles before you see the bucket-frames?

A. Yes, sir; looking aft.

Q. And does that show about the position occupied?

A. That is near about when they are laying and not at work. It does not show the spud there.

Q. She was not at work at night, of course?

A. It does not show any spud. It shows all the rest but the spud.

Q. I understand that; but I am speaking of the tall poles that run up. They are taller that the bucket?

A. Yes, sir.

Q. About what is the size of the poles?

A. About 7 or 8 inches through.

Q. Now you speak of the night. To what part of it was your personal knowledge confined?

A. Well, we call it night at half past six to ten o'clock.

Q. Where were you at that time?

A. I was between the dredges a portion of the time and a portion of the time in the city.

165 Q. At what time did you arrive home?

A. That I could not say.

Q. How long did it take you to come up?

A. In the neighborhood of two hours.

Q. How did you come up?

A. On the tug-boat.

Q. What is the distance from here?

A. About 16 miles, I suppose.

Q. You left there between 4 and 5?

A. Yes, sir.

Q. Then you went home?

A. I do not reside in Baltimore. I did not go home. Stopped in Baltimore that night.

Q. You went to the place where you stop, in any event?

A. Yes, sir.

Q. You certainly did not sleep out doors?

A. A portion of the time I made my home on board the tug-boat.

Q. Did you that night?

A. No, sir.

Q. You cannot say where you went to when you got up?

A. I went around town.

Q. Do you remember that you did go around town?

A. That is a matter I judge for me, where I went.

Q. What?

166 A. Well, I do not remember.

Q. Do you know how much water these dredging-machines draw?

A. No, sir; that is out of my line.

Q. Can you tell which dredging-machine you was on when it did anchor?

A. No, sir. I generally put a buoy down for them to anchor by.

Q. You cannot say you were on board of either?

A. No, sir; I did not generally be, I think.

Q. I am now talking about this particular time.

A. No, sir; I could not say I was.

Q. You could not say they were down there when they did anchor?

A. Yes, sir; I have already said that on the stand.

Q. You cannot say where you were when they did anchor?

A. I was near by.

Q. Can you tell where you were?

A. In a small boat.

Q. Do you remember you were in a small boat when they anchored?

A. Yes, sir.

Q. Then you were not on board——

A. It does not require me.

167 Q. I am talking about which one you were on board of, and you say you cannot recollect. Now you recollect you were on a small boat when they anchored. Is that right?

A. If you say so.

Mr. **Beebe**. It is for you to say; not me. That is all I have to ask you.

By Mr. Steele:

Q. You have been asked how long a time it would take to pull one of those dredges out of the channel at night. Suppose she was pulled out of the channel, how long a time would it take to get her again in position in that quarter she would have to be accurately in position to work?

A. That question I did not answer then. I answered him, I believe, that it would be owing to the weather altogether.

Q. You have been asked whether you have any knowledge of these dredges pulling out of the position in which they were at work, at night, after this accident occurred. Let me ask you this question: "Did you give them any orders to pull out of position after that accident?"

A. No, sir.

Q. How does the Craighill Channel run, north or south?

A. It is supposed to run nearly north and south.

168 Q. I understand you to say you went in a small boat, and saw *and saw* this dredge was in the position you directed her to take?

A. Yes, sir.

By M'r Wallis:

How far did you say the distance was from the General Tom up to the Craighill?

A. Well, it would be about a mile and a half. It is supposed to be about that from the General Tom to the Craighill.

Q. The Fobes lay about half-way between them?

A. I did not say so.

Q. I ask you.

A. No, sir.

Q. Well, where did she lie?

A. The Fobes, when she sank, was half a mile north of the Craighill.

Q. I am not asking when she sank; when they were placed in line?

A. Well, there was about a mile and a quarter from the General Tom to the Charles Fobes, and about a quarter of a mile from the——

Q. That is, when they were placed in position?

A. Yes, sir; the distance was not measured; a mile and a quarter from the Tom to the Fobes, and about a quarter of a mile from the Fobes to the Craighill.

Q. And they were about in a line, I understand you to say?

A. There was some difference in the two—in the three ma-
169 chines—as I said before. The Craighill was three to four feet to
the eastward of the Fobes, and the Tom and the Fobes were near
about on a line. I didn't go into any definite explanation of those.

By M'r Steele:

Q. The Thom and the Fobes were about in a line. *Q.* How about the Craighill?

A. From *four* to *three* feet eastward of the Fobes, as I stated before

By M'r Wallis:

The other two were about in a line?

WITNESS. Which two?

Q. The Craighill four to three feet east. Then I say the other two were about in line?

A. The Fobes and General Tom. You confine me to each machine, and the name of them, and I want to still stick to them.

Q. You say the Craighill was 43 feet east; I ask you were the other two in a line?

A. As near as you can come at it without a definite measure.

Captain **GEORGE LORD** sworn.

By M'r Steele:

State whether you were captain on the Charles Fobes at the time of the collision.

A. Yes, sir.
170 Q. How long had you been captain of her, ever since she was
built?

A. Yes, sir.

Q. How long?

A. Since last May a year ago.

Q. You will state to the court how the Fobes was anchored and how she was laying on the night of the 25th March, when this collision took place.

A. She was laying head to the southward, with a cord-line upon each quarter, leading forward—lying on the stern anchor at about a quarter anchor's run from the quarter of the dredge, leading forward to the end of the dredge.

Q. With an anchor out at the stern, and two anchors out, one on each side, on her quarter?

A. Yes, sir.

Q. Was the spud——

A. The spud was up.

Q. Any breast-line out?

A. No, sir; we had no breast-line out that night; the usual custom was to have a breast-line.

M'r **BEEBE.** Never mind that; we do not care about the custom.

M'r **STEELE**. There is no objection, I suppose, to his stating what his custom was?

M'r **BEEBE**. I think there is, clearly.

WITNESS. The reason why we hadn't one out was because I
171 took these quarter-lines and laid them forward over the forward end of the dredge, which kept her in the proper position.

By the court:

Q. Who gave you direction about the placing of this dredge?

A. M'r McCullough.

Q. You put her, then, in the spot he designated?

A. Yes, sir.

By M'r Steele:

Q. How much water does she draw?

A. About five feet.

Q. About how much above water?

A. From the forward end about 4 feet seven inches.

Q. Above the water?

A. Yes, sir.

Q. Have you lamps on board the dredge?

A. Yes, sir; three signal-lamps.

Q. Where are they located?

A. One forward, the others aft.

By the court:

Q. How high above the deck?

A. About twenty feet.

Q. Were you on board at the time of the collision?

A. Yes, sir.

Q. Were you up at the time of the collision?

A. No, sir. I was up when the ship struck, but I was turned
172 in before she struck. I was alarmed by the watchman.

Q. Were you awake at the time of the collision?

A. No, sir; I was in the cabin.

Q. But you were awake?

A. Yes, sir.

By M'r Steele:

Q. You say you were alarmed by the watchman?

A. Yes, sir.

Q. What notice did he give?

A. He sung out to us that a ship was coming into us full speed, and for us to turn out.

Q. You were in the cabin?

A. I was in the state-room then. I was just standing in the state-room door as the ship struck.

Q. Was the blow a violent one?

A. Yes, sir, very; enough so to throw me across the dining-room, a distance of about ten feet.

By the court:

Were your lights burning?

A. Yes, sir; the lights were burning when she sunk. The forward light was put out by the sea washing over the boom while the light was suspended. It was still burning when she sank. The mate took the after one down and took it into the boat and carried it to the other dredge.

By M'r Steele:

Q. The boat in which you went off?

A. Yes, sir.

173 By the court:

Q. At what hour was the collision?

A. Between ten and half past ten.

Q. What sort of a night was it?

A. A bright, clear, starlight, moonlight night.

By M'r Steele:

Q. Was there a moon?

A. Yes, sir.

By the court:

Q. It was the night of the 25th of March?

A. Yes, sir.

M'r BEEBE. It is easy to fix that.

M'r STEELE. You say after the collision the two lights were still burning?

A. Yes, sir.

Q. One of them was extinguished by the waves as she sunk?

A. Yes, sir.

Q. The other one?

A. The after one we took down. The mate took the after one down, and we took it to a small boat with us and rowed to the other dredge, the Craighill.

Q. When you came out, did you come out of the cabin after the collision took place?

A. I went below to see what damage was done.

Q. What did you find?

174 A. I found a large hole near the forward end, and the water coming in very rapidly. I went back to my room and put on my boots and pants, and went back and looked at the hole the second time. There was about 18 inches of water at that time in the forward end of the dredge. I then gave orders to spread the fires and blow the whistle, to signal the tow-boat for assistance. That was done, but he gave us no answer.

Q. You whistled for assistance?

A. Yes, sir; and got no answer. We spread one of the fires built on the boat, and then the tow-boat came round on the eastern side.

Q. What tow-boat?

A. The Ehrman; she came round to assist the ship. I called to the captain to tow us into shoal water, as we were sinking. He replied to me to start our pump. I told him that it was no use; that the water was coming in as large as a water-cask. I then asked him to bring us the scows alongside. The scows were laying mooring a short distance off. He replied to me, "How in hell can I leave the ship and come to you?"

Q. That is the Virginia Ehrman?

A. That was towing the ship. We then slackened away the 175 quarter-line in hopes to swing around the other end to the sea, in order that we might be able to keep her up for a time—the dredge swung round to the westward, the western quarter-line being cast off and lying slack on deck; as the dredge swung round to the westward that line payed out—all payed overboard—the end of it. We slacked away the eastern quarter-line altogether and let that run out, and the dredge swung round the centre of the channel then and held it to the stern-line.

Q. How long did all that take?

A. I should judge the dredge sunk in about 10 minutes from the time she was struck.

Q. You got the boat out?

A. The boat was lowered; we had six men on board.

Q. You got your boat out. When you got into your boat what was her condition then? How much water had she?

A. The water was on deck. I got into the boat. The mate was the last man to get into the boat. He was taking down the after lamp. When I got into the boat, the deck, I should judge, was about four inches above the water. When the mate came along deck to take the lamp down, the port side of the deck was under water. The dredge sunk in a few minutes after we left there.

176 Q. The ship struck her in front?

A. Yes, sir.

Q. How deep did she seem to cut into her?

A. About two feet below the water line; and, in the pressure, the ship being fast to us, the weight of the ship, and the wind being aft, before we slacked the quarter-line, pressed the dredge down.

Q. The ship cut into her and was bearing her down?

A. Yes, sir.

By the court:

Q. What part of the ship struck?

A. The stem, the cut-water. She came with a fair head on.

Q. Did you notice the deck immediately?

A. I went down below to see what damage was done.

Q. Did you see the tug?

A. The tug was laying on the western side of us.

Q. How far from the ship?

A. She was clear of the ship. I should judge she was lying off there about 200 or 300 yards at that time.

M'r Beebe. What is that?

A. The tow-boat, when I came on deck, was laying on the western side of the dredge. She was some distance off. We hailed her and blew the whistle continuously, but got no response.

177 The court:

Was the tow-line taut or slack?

A. I was not deck when the tow-line was cast off. You mean the tow-line from the Ehrman?

Q. I mean the tow-line from the tug to the Agnese?

A. I did not notice, I was not up there.

By M'r Steele:

Q. Had it been cast off at the time she came up?

A. The watchman said it was cast off.

M'r Beebe. Never mind what the watchman said.

Witness. I do not know that.

Then you had better not state anything about it.

A. I was turned in when the hawser was cast off. I was lying in my bed, I suppose.

Q. Still you do not know all that?

By the court:

Q. Were the sails of the ship spread?

A. Yes, sir.

By M'r Steele:

Can you state what sails were set by the ship?

A. No, sir; cannot; most of her square sails. She was coming head on.

By the court:

Was there much breeze?

A. Yes, sir.

Q. Where was it from?

178 A. The wind was nearly from the southward, I could not tell the exact point.

Q. Still it was from the south?

A. Yes, sir.

By the court:

Then it was a fair breeze for a ship coming up?

A. Yes, sir; it was blowing a stiff breeze.

Q. The ship, you say, was into the dredge and was pressing her down?

A. Yes, sir.

Q. And the water running in rapidly? And I understand you to say that you slackened that east quarter-line?

A. Yes, sir.

Q. And then the tug swung round?

A. The dredge and ship swung round. The ship still hung on to us when we slacked the quarter-line.

Q. When she swung round did the ship come out from her?

A. No, sir; the ship was fast to us when we swung round.

Q. How was she gotten out?

A. I could not state that. The tow-boat was way round her assisting her, but whether the tug-boat pulled her out from the dredge or not, I could not state.

Q. You were swung around to the north?

A. To the westward.

Q. Finally to the north?

179 A. Yes, sir.

Q. But you swung round to the western side?

A. Yes, sir.

Q. I think you said in ten minutes after she was struck she sunk?

A. Yes, sir; about that.

Q. Were the lights burning brightly or dimly when you saw her?

A. Very brightly.

Q. Can you describe to the court what kind of lights they were?

A. They were signal-lights, white, bright, signal-lights; they were trimmed and put up at sundown.

Q. Opened all round?

A. Yes, sir.

Q. Can you speak yourself of the fact they were put up and trimmed that night? Have you any personal knowledge of that fact?

A. Yes, sir.

Q. State to the court.

WITNESS. I saw the lights trimmed in the afternoon by the watchman and put up that night by sundown.

Q. Did you see them put up?

A. I did.

Q. It was your habit every night?

M'r Beebe. Never mind the habit.

180 A. It was; the lights were also burning very brightly. About nine o'clock. I turned in at about nine o'clock. At that time the lights were burning brightly.

By the court:

How long after the ship struck before you got on deck?

A. I just went below and looked at the hole, and came on deck and put on my boots and pants.

Q. A minute?

A. I should judge not more than a minute and a half.

Q. When you got up did you see the tug?

A. Yes, sir.

Q. Where was she?

A. Laying off the western side of us.

Q. How far?

A. About two or three yards, I should judge.

Q. To the head or to the side?

A. To the side; might have been bearing a little to the head, nearly abreast.

Q. There was no tow-line to the ship?

A. No tow-line; they casted off previously to that.

By M'r Steele:

There was no tow-line from the tug to the ship?

A. No, sir.

Q. It had been cast off?

A. Yes, sir.

By M'r Wallis:

Do you mean to say it had been cast off?

181 A. I do not say it was cast off. I saw no tow-lines, but it was impossible from the distance she was lying from the ship, I should judge, to have a hawser that length.

By M'r Steele:

You judge from the distance she was lying from the ship, that it was impossible to have a hawser?

M'r Beebe. All that is a matter of judgment and not of fact; but there will not be any dispute about the fact. They were not connected at that time by a hawser.

By the Court:

You do not know when it was cast off?

A. No, sir; I know when the tow-boat came around on the eastern side to assist the ship.

M'r Beebe:

Around her stern, or around you?

A. I cannot say whether she came around our stern or around our bow.

By the court:

But when you first saw the ship she had her sails set and a fair wind?

A. Yes, sir.

Q. And a stiff breeze?

A. Yes, sir.

Q. How many people on deck; did you see anybody on deck?

A The ship was so high above that it was impossible to tell how many people there were.

182 M'r BEEBE. She hadn't but twenty on her deck.

Q. When you were in the position before the collision were you on the west side of the excavated channel?

A. Yes, sir.

Q. Do you know anything yourself of the depth of the water outside the Craighill Channel to the westward?

A. Only what I have been told.

By M'r Steele:

You say you whistled to the tug for assistance?

A. Yes, sir.

Q. Was there any whistle from your dredge, and if so, when?

A. There was a watchman who blew one whistle before the collision to warn the tow-boat.

M'r BEEBE. Never mind that; state the fact.

By M'r Steele:

The watchman blew one whistle before the collision?

A. Yes, sir.

By the court:

What became of you and your mate?

A. We got into a small boat and went to the Craighill, the other dredge, for shelter.

Q. You took with you the light, still burning, that had been up at the stern of the boat?

A. Yes, sir; the tow-boat rendered us no assistance at all.

183 Cross-examination by M'r Beebe:

Q. How many did your crew consist of?

A. Ten.

Q. Had you any interest in the dredge yourself?

A. No, sir.

Q. Were you hired by the month?

A. By the day.

Q. How much a day?

A. Three dollars a day.

Q. Did all the men that you had on board who comprised the crew live on board?

A. Yes, sir.

Q. What was their respective pay? How much did your engineer get?

A. Seventy dollars a month.

Q. And boarded?

A. Yes, sir.

Q. And your men?

A. Two of them forty-five dollars per month each.

Q. Now you have accounted for four; now the other six?

A. Two deck hands at forty dollars per month.

Q. The mate?

A. Fifty dollars per month. Kedge-tender, twenty-five; cook forty-five.

Q. All boarded ?

184 A. Yes, sir; watchman, I think—I am not sure about the watchman's wages, but forty-five dollars a month, I think, and board.

M'r Beebe:

You will inquire about it and correct it, I suppose, if you find you are mistaken ?

A. Yes, sir.

Q. You have got them all now, I believe ?

A. Yes, sir.

Q. Your estimated expense of living a day per man is what ?

M'r STEELE. If you know.

WITNESS. I do not know. I am not prepared to state.

Q. Have you any familiarity with that sort of navigation, that you can form an estimate of how much it would cost you ?

A. I suppose I might after deliberation.

Q. Give us an approximation to it if you can—60 cents—75 cents a day ?

A. I could not state.

Q. You could form no estimate ?

A. No, sir.

Q. Do you know how much coal you use a day ?

A. No, sir; we coal up very irregularly.

Q. You kept fires all the time while you were at work ?

A. Yes, sir; every night too.

Q. Did you bank your fires much ?

A. Yes, sir.

185 Q. But you can form no judgment as to how much coal you burnt ?

A. That is not my business.

By Mr. Steele:

Didn't you board the hands yourself one time ?

A. Yes, sir.

Q. You can state what it cost.

A. Some months it cost me——

Q. Not how much it cost you; how much you were paid for it.

A. I was paid $125 per month. When you want it by the day, I have to go down here (referring to his pocket) and pay considerably more than I was allowed.

Q. The dredge was paying at the rate of $125 per month for keeping the men ?

A. Yes, sir.

Q. Now let us see about your anchors. The hawsers were ropes ?

A. Yes, sir.

Q. Your hawsers were made fast to the aft quarter on each side, and about how far from the stern ?

A. From ten to fifteen feet.

Q. And made fast to chocks ?

A. They are through chocks and made fast to cleets.

Q. About what size of lines were they ?

A. Five-inch.

186 Q. How much did they spread; about what angle did they extend from the vessel when your anchors were out ?

WITNESS. Placed at a proper angle for us to move the dredge.

Q. About how many degrees was the angle? They went out like wings?

A. I could not tell.

Q. Such as my arms are now indicating?

A. No, sir.

Q. Such as that, (again extending his arms.)

A. Well, not any more, probably.

Q. From 20 to 25 degrees?

A. No, sir. Not so much as that, because carrying it at a distance of two coils of line to make the long spread.

Q. At this time how much cable had you out, or hawser?

A. Nearly two coils on each quarter anchor.

Q. How many fathoms in a coil?

A. I could not state. I suppose between sixty and seventy fathoms. We do not buy it by the fathom but by the pound.

Q. Can you form any idea of the length?

A. I suppose about one hundred and twenty fathoms on each side.

Q. On each cable.

187 A. Yes, sir.

Q. Was it all paid out?

A. Nearly all.

Q. Just enough to make you fast properly?

A. We had about fifteen fathoms, I judge, on deck.

Q. It was not paid out?

A. Yes, sir.

Q. That was a part of the 120 fathoms?

A. Yes, sir.

Q. Then you must have had about one hundred fathoms out?

A. About one hundred and five.

Q. That made 630 feet on each side?

A. Yes, sir.

Q. Do you know how many feet make a fathom?

A. I did use to.

Q. About how much is it?

A. About six American feet.

Q. Then she had an anchor out at the stern?

A. Yes, sir.

Q. How many fathoms of cable were out?

A. I could not say.

Q. Was it about the same as was on your quarter cable?

A. No; not so much.

Q. About how much?

188 A. I could not say about how much there was, because I did not notice it.

Q. Then you cannot tell anything about it?

A. No, sir.

Q. Did you know what was the length of the cable you had fast to your stern anchor?

WITNESS. The whole length?

Q. Yes.

WITNESS. What remained on deck and what was paid out?

Q. Yes, sir.

A. There were two coils of it.

Q. Now, do you remember about how much was left on deck?

A. No, sir; I do not.

Q. You had no breast-line out?

A. No, sir.

Q. You had your spud down when you anchored?

A. Had it up.

Q. When you anchored did you put your spud down at any time that night?

A. No, sir; I put my bucket down, and held her in position with my bucket.

Q. Then the spud was not down at all?

A. No, sir; I think not. It was not down.

Q. Was your spud left in the hole?

A. Yes, sir.

Q. It was raised up or taken entirely out?

189 A. It was raised up so as to clear the bottom.

Q. Then how far did that bring it from the deck of your vessel?

A. I suppose about 20 feet.

Q. What was there on your deck—these shears?

A. They were there.

Q. And about what was the height of your shears?

WITNESS. Those on deck?

Q. Yes, sir. To the top of the shears.

A. I suppose they are about 25 feet.

Q. Had you any mast?

A. No, sir.

Q. To what was your forward light made fast?

A. To the boom.

Q. That was the boom that you hoisted with?

A. Yes, sir.

Q. Whereabouts was that boom?

A. You see it there on the photograph.

Q. You describe it.

A. This (indicating on photograph the boom.)

Q. I understand from the shears.

A. That (indicating) is the boom.

Q. If the bucket was down would that boom be down?

A. No, sir. We raise the bucket; we do not raise the boom.

190 Q. Then the boom is not disturbed by any action of the bucket?

A. Yes, sir; by swinging over the scow hung alongside.

Q. But it neither changes its up or down position?

A. No, sir.

Q. Then these bucket-poles are nearer to the bow than that boom?

WITNESS. In what way?

Q. I suppose outside of the forward part of your boat. Then here (indicating) is your bucket, there outside of the bow of your boat?

A. Yes, sir.

Q. And your bucket-poles are attached to these buckets?

A. Yes, sir.

Q. And then simply abaft of that comes this boom?

A. The boom comes right up between the bucket-poles and runs down at an angle on deck.

Q. Wherever it does—what is the extreme height of that boom?

WITNESS. From the water?

Q. Yes.

A. I could not say.

Q. About what height?

A. The boom is about 45 feet long. It is 21 feet from the end of the dredge back to the foot of the boom.

Q. That is from the forward end back?

191 A. 45 feet in length.

Q. Is it 45 feet high?

A. No, sir.

Q. How much?

A. I could not state.

Q. What is the distance from your deck up to the top of that boom?

A. I suppose somewhere about 33 feet.

Q. And commenced to run in aft from the place where it is fastened to these bucket-poles?

A. Fastened to the bottom of the chain leading to the top. The other photograph will show it to run that.

Q. That seems as if fastened to the bucket-poles.

A. They can reeve it through thimbles.

Q. Thimbles attached to the boom?

A. Yes, sir.

Q. From there it runs back?

A. Yes, sir.

Q. Now, then, you say your bucket was down that night?

A. No, sir. It was down that night. I put it down when I towed down the channel.

Q. I am talking now of when you finally took the position.

A. The boom was up when the ship struck us.

Q. You say the wind was blowing fresh?

A. A stiff breeze.

192 Q. You usually study the vessel out on the breast line on the windward side to hold?

A. Yes, sir.

Q. That night you had none?

A. No, sir.

Q. Had you done any work that afternoon?

WITNESS. Dug any mud?

Q. Yes.

A. No, sir.

Q. Only took your position to dig?

A. That was all.

Q. What was your aft light made fast to?

A. To a crane on a flag-pole.

Q. Then you had a flag-staff?

A. Yes, sir.

Q. What was the height of that flag-staff?

A. I judge about 12 feet from the top of the house, the house about nine feet.

Q. Did it come up from the top of the house?

WITNESS. How from the top?

Q. Was the house out of which the flag-staff went, or did it go up from the main deck?

A. Up from the end of the house.

Q. From the centre or midships?

A. Centre of the dredge.

Q. That is the centre of the house? Not the centre in length but the centre in width?

193 A. That is what I mean.

Q. About how far from the stern?

A. About 15 feet.

Q. This house of which you have spoken, was that your cabin?

A. Yes, sir.

Q. And contained also your galley, where the cooking was done?

A. Yes, sir.

Q. Also caboose?

A. Yes, sir.

Q. What is the depth of your hold?

A. About nine feet four inches, I suppose, that is from the deck down to the bottom of the timbers.

Q. She had no kelson?

A. No, sir; not kelson proper; she had timbers.

Q. Her timbers extended all the way across?

A. Yes, sir; both ways.

Q. About what was the height of the house above the main deck?

A. The after end of the house was about 9 feet, and the forward end about 10 feet 4 inches.

Q. Your entrance to that cabin, was that forward or aft?

A. It was a little aft of the midships.

Q. On the side?

A. On each side.

194 Q. On each side there were doors that entered the cabin?

A. Yes, sir.

Q. Was it in that that you turned in, in the aft end of the cabin; you turned in about nine o'clock?

A. Yes, sir.

Q. Did you go to sleep?

A. It was not long before I went to sleep.

Q. You did go to sleep?

A. Yes, sir; that is the way I was when the watchman sang out.

Q. We will get to that presently. What was the first thing that awoke you?

A. The watchman came into the cabin and sung out that a ship was coming into us at full speed.

Q. Had you got out of your berth before you felt the collision?

A. Yes, sir; I got out and stood in the state-room door.

Q. Did you do that as quickly as you could?

A. Yes, sir.

Q. That was the first thing that called your attention to external matters; perhaps you might have been dreaming?

A. I don't think I was.

Q. That man's calling you was what woke you up?

WITNESS. What turned me out?

Q. And woke you up.

195 A. Yes, sir.

Q. Now, after you felt the collision when you had just got to the cabin door, then you went below?

A. No, sir.

Q. Where did you go?

A. I got knocked a few feet.

Q. The concussion carried you across?

A. Yes, sir.

Q. Where did you go after that?

A. I got up then and went down below.

Q. After you fell you got up, I suppose, and went down below?

A. Yes, sir.

Q. And there you found a hole?

A. Yes, sir.

Q. Could you tell from the inside ?
A. You could see the water coming in all around.
Q. Not all round, I hope ?
A. All round the ship's stern.
Q. Where the hole was you saw the water coming in ?
A. Yes, sir.
Q. All round the ship's stern ?
A. Yes, sir.
Q. Where was that hole ?
A. The hole was about here, (indicating.)
Q. How far was that from her starboard side ?
196 A. Here is the starboard side and here is where the hole——
Q. About how far from her starboard side ?
A. I judge the hole was about 8 feet from the starboard side. I didn't measure it.
Q. That is your judgment. That is the starboard side of the hole, or the right side of the hole ?
A. The starboard side of the dredge.
Q. The starboard side of the hole was about 8 feet off from the starboard side of the dredge ?
A. Yes, sir.
Q. How far was it across that hole ?
A. It was two feet eight inches, I think, at the top.
Q. And how far at the bottom ?
A. Two feet.
Q. And what was its length ?
A. I think it was six feet four inches in length.
Q. That was the size of the hole ?
A. Yes, sir.
Q. How much of that was below water ?
A. When the ship was pressing on to us it was all of two feet and a half.
Q. As a matter of course you were undoubtedly excited, were you not ?
A. Not a great deal.
Q. When you saw that water coming in through the deck you thought she was going to fill up and sink, didn't you ?
197 A. Yes, sir.
Q. Then you went back and got your pantaloons and boots on, and then went out ?
A. I went below again first.
Q. Then you found water about 18 inches deep in the hole ?
A. Yes, sir.
Q. Has that vessel any ceiling, or did her timbers show right inside of the hole ?
A. Her timbers showed.
Q. Were any of her timbers broken ?
A. Yes, sir.
Q. How many ?
A. The drawing shows all that.
Q. No, I ask you.
A. Then there was the head-timbers and one beam.
Q. How many timbers were broken ?
A. What they call the head-timbers.
Q. Was that the timber that runs round here ? (Indicating.)
A. Yes, sir.
Q. Do the beams run up into that head-timber ?

A. They run up and are secured to that.

Q. By bolts?

A. Yes, sir.

198 Q. Of the ribs or timbers how many were broken? What do you call those that run up from the bottom; those are ribs, are they not?

A. I don't know whether they call them ribs or not.

Q. They are called ribs. How many of them were broken?

A. You have the drawing there.

Q. If you do not know, say so.

A. You had better look at the drawing.

Q. The shortest way to get rid of me, if you do not know anything about it, is to say so. I ask you if you know how many of those ribs are broken.

A. There was one of them broken entirely.

Q. Deck-booms?

A. One deck-boom, and also another timber at the bottom broken. I do not know what they call that timber, I am sure; it has slipped out of my mind. It extends from the upright timber to the timber——

Q. What was the timber that went up?

A. That was one of them.

Q. Now, then, what was the first thing, when you got out, that attracted your attention after you got on deck—what was the first thing you looked at?

A. I looked at the ship.

Q. Was she then in contact with you?

A. Yes, sir.

Q. Did you go to the forward part of the dredge?

A. Yes, sir.

Q. How near did you go?

199 A. I went and looked and came back.

Q. How near did you go to it?

WITNESS. To the extreme end?

Q. Yes, sir.

A. I suppose about 8 feet.

Q. Then where did you go from there?

A. I went back and assisted in lowering the boat.

Q. Up to that time had you seen the tug?

A. Yes, sir; I saw her, when I went to the forward end of the dredge, lying on the western side.

Q. Did you notice her before you did the ship?

A. About the same time.

Q. Which door did you go out of?

A. On the port side.

Q. Left-hand side?

A. That was the side outside there.

Q. Where the deck was?

A. Yes, sir.

Q. When you passed forward did you go forward on the port side?

A. Yes, sir.

Q. Then you really saw the ship first?

A. I suppose I must.

Q. Did you see the tug before you started to go back?

A. Yes, sir; I saw her lying off westward of us.

Q. Was that while you were looking at the ship?

A. Nearly at the same time.

200 Q. You took them in with a glance?

A. Yes, sir.

Q. But then you say she was about 300 yards further to the northward than you were, and off on to the western side.

A. No, sir; I didn't say so; I say she was lying off at a distance of from 200 to 300 yards, nearly abreast westward of us.

Q. What did you do next; lowered the boat?

A. Assisted in lowering the boat.

Q. How many hands had you on deck at that time?

A. All of them.

Q. What did you do next after lowering the boat?

A. I went below and looked at the hole. I went to go below, but there was so much water in there I could not get near the hole.

Q. That is the next thing. I am taking these up seriatim, and I want you to be careful how you answer. That was the third time you had been on?

A. Yes, sir; the third time I attempted to go on.

Q. If you had been twice, and attempted the third time, and didn't go down——

A. Yes, sir.

Q. What was the next thing you did?

201 A. That was the last thing that was done. Before I went down with it——

Q. Let me see if I have got it exactly in chronological order. In the first place came the call to you; you got up and rushed to the door and found the ship was in you, and you were knocked across the cabin. Then you went down below and looked at the hole, then you came back and put on your pantaloons and boots.

WITNESS. Went below again.

Q. Then you came up and went out?

A. Yes, sir.

Q. Then you came out of the port-door and went forward and saw the ship. Then, at the same time, you took in this glance of the tug that was lying off on your western side; then you went and assisted in lowering the boat; then you started to go down into the cabin again, and could not get down. That is the last thing you did. Was there anything after that you *you* did, except to get into the boat?

A. That is all.

Q. Now, I have given a complete history of all that has taken place.

A. You have not got about the slacking of the port quarter-lines.

Q. You have not said a word to me about that. That is the very thing I asked about.

202 A. I said it two or three times, I believe. I will give you that statement now.

Q. At what time was it when the port quarter-line was slacked? Did you let it go, or only slack it?

A. Let it go altogether.

Q. That went off?

A. Yes, sir.

Q. Now we have got rid of the port-line. Then she swung towards the channel?

Q. How much did she swing?

A. Near the whole length of the stern-line.

Q. On your letting go of your port quarter-line, she swung clear around to the northward—swung around on her stern-line until she swung clear around to the northward?

A. Yes, sir.

Q. And the length of the stern-line ?

A. Yes, sir.

Q. Was all this time the ship in you?

A. The ship was in us when we swung around.

Q. When you had swung to the northward the ship was still in you?

A. Yes, sir.

Q. Your recollection is clear about that, is it?

A. Yes, sir.

203 Q. And that is, when you let go your port quarter-line, your dredge commenced swinging to the westward, and continued to swing until it got around to the northward?

A. Yes, sir.

Q. And all that time the ship was in you, swinging with you?

A. Yes, sir.

Q. So that when you got to the northward her stern was up and her stem was down the channel?

WITNESS. Which—the ship?

Q. If she was fast to you and swung with you?

A. After we got swung around?

Q. Let us see if I understand you. Now, I do not want to misunderstand you, nor to let you misunderstand me. Now, what was the first order that you gave in regard to your quarter-lines, or either of them?

A. It was to slack it up and let her swing around.

Q. That meant to let it go?

A. Yes, sir.

Q. And on that it was let go?

A. Yes, sir.

Q. And that was the port quarter-line on the eastern side?

A. Yes, sir.

Q. Now, at that time the ship was still against you?

204 A. Nearly swung around.

Q. I understand still in you?

A. Yes, sir.

Q. When you commenced swinging to the westward, and you swung all the way around, the length of the hawser to the northward—in other words, if you had 50 feet of hawser out and 70 feet of dredge, you swung all that around double before you brought up to the northward?

A. I did not see whether she swung around before sinking or not.

Q. How far had she swung when she sunk?

A. What I mean to say is, I did not think she tautened the stern-line in the whole length of it.

Q. But she had got up to the northward?

A. Yes, sir.

Q. Was the ship's stem still in contact with you when you were heading to the northward?

A. Yes, sir.

Q. Was the ship's stem still in contact with you when you sunk?

A. No, sir.

Q. Then you know whether you got swung. What position were you in when the ship parted from you?

A. I do not know.

Q. Had you swung to the northward, then?

205 A. Yes, sir.

Q. Did you swing any more to the northward after the ship parted from you?

A. I did not take particular notice of that. We were about getting ready to go into the boat. The water was getting pretty nearly on deck.

Q. Then she did not part with you until your deck was under water?

A. I think she did.

Q. When was it; about what point of your swinging was it she did part?

A. I cannot say.

Q. Was it when you first commenced to swing?

A. No, sir.

Q. Was it when you got around to the north she parted?

A. I am not able to state whether she swung entirely around at that time or not.

Q. But your impression is you had?

A. What I mean to say is, that I cannot state whether she was lying in the position she sunk when they took the ship from us.

Q. But at any rate up to the time the ship parted from you she lay with her stem in you, and she was swinging as you swung?

A. Yes, sir.

206 Q. So that when she parted from you, her stem must have been nearly down the channel?

A. Yes, sir.

Q. Now about her sails. Are you familiar with the names of sails?

A. Some of them.

Q. Will you tell me what sails she had set?

A. No, I cannot.

Q. Can you name any single sail she had set?

A. No, sir; I will not designate any single sail.

Q. You say all her square sails were set?

A. No, sir; I said most of her square sails were set.

Q. Can you name any one of them?

A. No, sir.

Q. Did she have her foresail set?

A. I cannot tell.

Q. Her mainsail, or did she carry a spanker, and was that set?

A. I suppose she had a spanker.

Q. Do you know whether it was set or not?

A. No, sir.

Q. Did she have the topsails set?

A. Which topsail?

COUNSEL. The fore-topsail.

A. I think she had.

Q. Can you swear to it?

A. No, sir.

207 Q. You were pretty much in a hurry about that time?

A. A man is apt to be in a hurry.

Q. I understand, but that is a fact, you were, were you not?

Q. You had a good deal else to think of than what was on the ship?

A. I just took a glance. I did not take time to ascertain whether the vessel had a spanker set as well as square sails, or what she had set. I know she had her square sails set. I do not know what ones. I cannot designate any particular ones.

Q. Do you have an interest in what you earn beside the three dollars a day?

A. Yes, sir.

Q. What is that?

A. A quarter of a cent per yard.

Q. For all excavated?

A. Yes, sir.

M'r Wallis:

How far had the stem of the ship penetrated into your vessel?

A. I suppose about five feet, on deck.

Q. How far below?

A. The off end of the deck is built angularly.

Q. It shelves down?

A. Yes, sir.

Q. You went below. When you went below how far had she penetrated inside, about?

208 A. I judge that at the time ship was on us, it was about two feet.

Q. Actually wedged in when you went below?

A. Yes, sir.

Q. You saw that?

A. Yes, sir.

Q. How long do you think you continued there?

A. I think I continued there from 5 to 8 minutes.

Q. From the time you were alarmed until you were left in the boat, how many minutes do you think elapsed?

A. Just about ten minutes.

Q. After the space of two minutes the vessel was in you?

A. About 3 minutes before I left she was out; she sunk two minutes after we left her.

Q. What effort did you make to save your vessel?

A. By spreading the fires and slacking the quarter-line, and letting her swing round, so the sea should strike her on the other end, and called to the tow-boat for assistance to tow us into shallow water, and called to him to bring the scows to me; and the scows lay at the moorings a short distance off, to assist in keeping her up; he said in reply to my request asking him to tow us into shallow water, he answered me to start the pump. I told him it was no use to start the pump.

209 Q. Pardon me just there; why was it no use to start the pump?

A. Because the water was coming in; we could not pump out with a pump that would pump two inches, the stream of water that was coming in through a hole two feet square.

Q. How many pumps have you?

A. Two; one syphon-pump, one that can work; we have a pump for feeding the boiler.

Q. How many inches of water could you have had, if you had resorted to all the appliances for that purpose on board the dredge?

A. We can throw one stream two and a half inches, and another stream through a two-inch pipe.

Q. Four and a half inches, then?

A. Yes, sir; she sunk before we could get the steam up sufficient to start the syphon-pump.

Q. Had you not steam up when the accident first occur'ed?

A. Yes, sir.

Q. What was the condition of your fires?

A. The fires were banked, with steam on—about 10 or fifteen pounds, enough to blow the whistle.

Q. Just enough to blow the whistle?

A. I do not know that it was just enough; there might have been a little to spare—was not enough to spare to start the syphon-pump.

210 Q. Are you quite sure you started that whistle before the vessel pulled out of you?

A. The first order I gave to blow the whistle for assistance from the tow-boat——

Q. State whether you know the whistle commenced before the vessel pulled out from you.

A. I know it was.

Q. Don't you know the tug-boat was engaged in pulling the ship out from you when you were calling upon her, and the reply came, "How the hell could he come to you when he was at the ship!"

A. He was laying off, working—working up to the ship.

Q. When you spoke to him?

A. Yes, sir.

Q. How long before he got aboard her?

A. I could not say.

Q. Was it not almost immediately?

A. He was not a great distance off from her.

Q. Was it not almost immediately? The whole thing was not more than ten minutes?

A. It must have been very quick.

Q. How was the ship got out of you, except by the tug pulling her out?

A. I do not know when the tug pulled her out. I cannot say as to
that—whether the tug pulled her out, or whether we swung
211 round to the other end of the wind, and the wind blew her out
when we swung around to the northward. The ship had a wind right ahead. I could not state whether the tug-boat pulled her out of us, or whether, in swinging round, the wind blew her out.

Q. How far around, when the ship came out, had you got? had you swung entirely round to the north of that hawser?

A. I cannot state whether we drawn up on the stern-hawser before the ship got clear out or not. I know she was heading around to the other end.

Q. You don't know whether the tug took her out, or she went out by operation of the wind?

A. No, sir.

Q. What was done with the ship after the collision?

A. I understand she was towed down on that night.

Q. I mean immediately after the collision. Did not the ship come to anchor?

A. I do not know whether she did or not.

Q. You did not see?

Witness. You mean when she was fast to us?

Counsel. No; afterwards.

A. I do not know.

Q. Did she not come to anchor after she was taken from you?

A. I do not know.

212 Q. Where was she when you were on the steamboat?

Witness. The ship?

Q. Yes; you saw her.

A. I do not know that I noticed her after we got into the small boat.

Q. It was a bright night, and you could have seen her without any difficulty?

A. Yes, sir; but I cannot place the ship to any particular place; the ship was lying there in the channel, not a great distance from the sunken dredge.

Q. You do not know whether she was at anchor or not?

A. No, sir.

Q. Didn't the captain of the tug come around to you, when you were in the boat, and offer, if you would go back, to tow you to the vessel, to the dredge, to shallow water?

A. He came around when we were in the small boat.

Q. Try to remember.

A. Yes, he came around when we were in the small boat. The tug-boat was coming to us, and he hailed the boat; that is the way I understood him, but others understood him differently. I understood him to say give him a line from the dredge. The reply I made him was, that she was past that. When those words were passed from me,
213 the dredge went under then. But others in the boat understood that he wanted a line from the boat.

Q. You understood him to want a line from the dredge?

A. Yes, sir.

Q. Did he say what he wanted it for?

A. No, sir. I understand the idea of it was to give us a line. I made the reply that she was past that, and almost immediately she sunk. Others in the boat understood him to say, to offer to give us a line from the boat to assist us.

Q. You do not recollect his asking you to go on board the dredge and give you a line, so that he might pull out?

A. No, sir.

Q. When you had these hawsers spread out, extending to a considerable distance from the body of your vessel, vessels coming alongside passing up—vessels of heavy draft—is it necessary that you should drop them for the purpose of letting them pass?

A. Yes, sir; when they come close enough to strike the line.

Q. How did you provide for that; for dropping them when vessels came in?

A. Slacked up and let them run overboard and sink in the water.

214 Q. Did you give them any notice at all of the lines being out—of these hawsers being out?

A. It is not necessary.

Q. I did not ask you about the necessity. I asked you about the facts.

A. The line can be seen.

Q. Did you or not give them notice; was there any notice that you gave them?

WITNESS. That the lines were out?

COUNSEL. Yes, sir.

A. No, sir. We always, invariably, slack the lines in season.

Q. Whose business to do that?

A. It was my business to see that it was done.

Q. If you happen below?

A. I am not below; I am in the house. If there is a vessel coming ahead, I can always see it; if there is a vessel coming astern, so that I cannot see it, the mate always informs me.

Q. I suppose you have your watch on deck, like others, at night?

A. The watchman looks out for this at night.

Q. Is it the business of the watchman, if a vessel is coming, to drop the hawser?

A. Yes, sir.

By M'r Beebe:

215 Q. Was there anybody on deck that night except the watchman?

WITNESS. At what time?

M'r BEEBE. At the time of the approach of this ship and at the time he called you.

A. No, sir.

Q. After this collision did you go on board of another—I mean up to the time this contract was finished—did you go on board of another dredge?

A. I do not understand the question. What do you mean, on another dredge?

Q. Did you go on board of another dredge?

WITNESS. On business?

Q. I mean were you attached to another dredge, or do any dredging in this channel.

WITNESS. After the collision?

COUNSEL. Yes, sir.

A. No, sir.

Q. And you do not know what was done at night down there with the other dredges?

A. No, sir.

M'r Steele:

In reference to the thickness of this timber, which you say was broken by the blow of the ship, do you recollect what was its size?

WITNESS. The forward timber?

COUNSEL. Yes, sir.

A. I think it was 14½ inches square. I measured it, but I can-
216 not recollect clearly; the deck timber, I think, was 10 by 14.

Q. I understand you to say there was not time enough to get up steam to work the pump before the vessel sunk?

A. No, sir; there was not.

JOHN WILLIAMS sworn.

M'r Steele:

State whether you were on the Charles Forbes on the night of the collision.

A. Yes, sir.

Q. You were watchman, I believe, on board?

A. Yes, sir.

Q. That was the capacity in which you were employed?

A. Yes, sir.

Q. Night watchman?

A. Yes, sir.

Q. You were on watch that night, were you?

A. Yes, sir.

Q. Can you state to the court what kind of a night it was?

A. It was a fair moonlight and starlight night.

Q. Do you recollect what time of the moon it was? State whether it was high or low.

A. I believe the moon went down about three o'clock that morning.

217 The court:

What time did the collision take place?

A. A little after 10 o'clock.

Q. Was there any wind ?
A. Quite a smart breeze.
Q. Where from ?
A. The wind was about south of east.

M'r Steele:

That was a fair wind for a vessel coming up ?
A. A fair wind.
Q. Will you state, in reference to this collision, just how it took place ?
A. Well, the ship and tug drew my attention alongside of the Craighill. I saw the ship so close to the dredge that there must have been a haul of some of their lines; and therefore I thought all the way from there until they came down alongside of . After she got clear of the Craighill, the tug blew her whistle several times. It is a common thing for steamboats to do—to blow their whistle to inform us that they are coming along. I blew my whistle once to let him know I was on the lookout for him. When he dropped within hailing distance, the captain of the tug-boat hallooed, to slack your lines down. I had the lines, and took all the turnings off—all but two—so that I could slack it up in half a second. The tug-boat came in along, and it passed,
218 got by the lines. As I saw the ship she took a rank shear all at once, and must have put her helm in port.

The court:

The tug-boat cleared you ?
A. Yes, sir; and when the tug-boat saw the ship was bound to hit us, he threw his line and drew off to the westward, and lay there. And, to take the rank shear, she must have put her helm in port, or else she would not have sheared so very suddenly.

The court:

The tug-boat was drawing the ship, and suddenly the ship took a shear ?
A. Yes, sir. Directly she did that the tug-boat threw a line off.
Q. Did you see what caused that shear ?
A. I could not say, unless there was carelessness, which nobody——I do not know, but it seems to me that it was done carelessly; it seems to me as if there was nobody looking out, or something to cause it. I do not know how it could have occurred in any other way.
Q. I submit the witness is not an expert.

The court:

If it had not been for this shear both vessels would have passed you ?
A. I think very likely, if he had followed the tug-boat up and gone clear. It would have been pretty close work, as the tug-boat was rather closer than she ought to have been.

219 M'r Beebe:

How is that ?
A. If the ship hauled the tug-boat up, I think it likely they might have cleared, but was rather too close work—rather too close.

The court:

Which way was she sheared—to the eastward ?
A. To the eastward.
Q. You do not know from what cause ?
A. I do not know what was the cause; but that was the cause of the collision.

M'r Steele:

On that shearing, as I understand you, if she had followed the wake of the tug she would have gone by?

A. I think she would have gone clear.

Q. Did you see what sails the ship had set on that night?

A. He had his square-sails set, and his topsails—gallant sails—those on the forward main. The mizzen I did not see.

Q. What was the degree of violence—was the blow violent or not?

A. She struck hard enough to knock them off their feet. It knocked them every way. It knocked the crew down on the deck.

M'r STEELE. Those that were up?

M'r WALLIS. On what vessel?

A. On the dredge.

220 Q. Was it the forward part of the dredge that was struck?

M'r BEEBE. I do not suppose that there is any dispute as to where she was struck.

M'r Steele:

I ask him some questions for the purpose of founding others that I propose to ask him.

Q. How deep did you say the ship cut into the dredge?

A. I took my lantern, and went down below directly after she struck, and went clear forward alongside of it. The ship's bow was buried right in, I should judge. I was on the inside. I should judge she was perhaps two feet in the water; that is, below the water edge.

Q. Did you observe whether or not the lights were burning on board the dredge at that time?

A. On board of our dredge?

Q. On board of your dredge.

A. That is the first thing I always look at when I see a tow coming along, to see whether the lights were burning well. We have had the best lights on the bay, anyhow; they have always burned well.

Q. Were they burning that night?

221 A. Yes, sir; burning bright and well. They are the signal lights; the same lights used by the United States Government on their buoys; a little better than them.

Q. Were they round or square, or what shape?

A. Round.

Q. Was any part of them obscured, or were they light all round?

A. All round.

Q. Could you see the buoys that night? Was it light enough for that?

A. Yes, sir; it was light enough, but I do not recollect in particular of looking for the buoys that night.

Q. How far can you see a vessel on such a night?

A. I could see a vessel all of three miles off that night.

Q. A bright moonlight and starlight night?

A. Yes, sir; and that was a large vessel.

Q. Was the dredge lying in the excavated channel or on the edge of it; and if on the edge of it, which edge?

A. She was lying on the west edge of it, ready for going to work the next morning.

Q. You say you have seen large vessels passing to the westward of that point, but you do not know exactly the depth of the water?

A. No, sir.

Q. When this collision took place—when you saw that it was about to take place, what did you do?

222 A. Well, directly that I saw her take that sheer I knew it was impossible for her to go clear, whichever way she went. I then run to the door of the dining-room, where they were there in their beds, all turned in about an hour or so before that, and I hallooed to them just as loud as ever I could, and told them that there was a large ship about to run into us, and told them to get out. I turned back and hallooed a second time, for fear they would not hear me.

Q. They heard you and got up?

A. Yes, sir; they jumped out, and they were out I could not say how long before the collision took place, but it was only a short time before the ship struck us.

Q. How long do you think it was after the blow was received by the dredge before she sunk?

A. I should think it was inside of ten minutes.

Q. Did you see how the water was coming in, or whether it was coming in rapidly?

A. I did. I went down the first thing, and I came along. The captain sent two men down to spread the fires to start the steam. The fires had been banked. I came along and I asked them what they were doing. They said they were spreading the fires to get the steam up. I
223 said go on deck and get the boat ready, that the dredge will sink in a few minutes. They dropped it and went on deck and got the boat ready. I went forward to see how the ship was getting along; she remained there fast, and I went back again and went down below and took a lantern, and I saw the water was rushing so fast that I came out again in a hurry.

Q. How long, do you think, or can you give the court any idea how long it was after the collision before the water reached the fire?

A. Well, I should judge it was up to the fires in less than five or six minutes.

Q. Less than five minutes after the collision?

A. Yes, sir.

M'r Steele:

You put the lights up yourself, or did somebody else?

A. I put them up.

Q. What is the h'ight above the deck of the vessel?

A. I guess about 19 or 20 feet.

M'r Beebe:

You were the only man on deck?

A. Yes, sir.

Q. What time did you go on the watch?

A. 6 o'clock.

Q. And remained on all night?

A. Yes, sir.

224 Q. Had you gone down on her from Baltimore to the place she anchored?

A. Yes, sir.

Q. You heard the captain read the description of the way she was anchored?

A. Yes, sir.

Q. Do you agree with that?

A. I do.

Q. When you first saw the tug how near was she to your vessel?

A. Well, sir, she was alongside when I first saw her.

Q. The tug herself?

A. Both.

Q. Of course the tug was ahead of the ship?

Q. Where was the tug? Had the tug passed the Craighill when you first observed her?

A. She was off a little, half a mile, and I could not see whether past or abreast or almost up to it, but I saw the ship.

Q. You saw her away down below?

A. Yes, sir.

Q. Did you see her lights?

A. Yes, sir. The Craighill's lights and the tug-boat's lights, both.

Q. And the lights of the ship?

A. Yes, sir.

225 Q. Was the lights the first thing that attracted your attention?

A. The size of the ship; she was a large ship. I do not know whether the lights were of the ship.

Q. I did not ask what the supposition was. If you remember what first attracted your attention say so.

A. I do not recollect.

Q. Do you not know whether it was the lights or the object itself?

A. I cannot remember.

Q. Now the tug as she came along up, did she keep off to pass you?

A. Yes, sir.

Q. And passed how close to you?

A. I should judge it would be probably 30 or 35 feet off.

Q. Did you see her make that shear to pass you?

A. No, sir; she came right straight along.

Q. Did she change her course at all to pass you?

A. No, sir, not until after we let go the dredge's hawsers.

Q. Then she had passed you?

A. Yes, sir; she was past us.

Q. Now you say that you saw the shear of the ship?

A. Yes, sir.

Q. How close had the ship got to you when you saw that shear?

226 A. The tow-line was a pretty long one; perhaps 50 or 60 fathoms.

Q. Do you know how many feet there are to the fathom?

A. Yes, sir.

Q. How many?

A. Six.

Q. How near had the stem of the ship got to you when you saw this shear?

A. She was hauling that hawser away from us. The tug-boat had just cleared us with the end of the hawser when I saw that shear.

Q. Where were you standing at that time?

A. I was standing about half-way from the starboard side of the dredge.

Q. Half-way midships, between forward and aft?

A. Yes, sir.

Q. Had you done anything except what you have stated? Your lights were up, and had you done anything else except what you have stated to attract attention?

A. That's all.

Q. Where was the tug when you say that you cast off a part of your starboard hawser?

A. Just got by the bow of the dredge; justly merely got by there.

Q. Then the tug had passed the bow of your dredge when you cast off a part of your hawser?

227 A. Yes, sir; the line was slack all night because the wind——

Q. I didn't ask anything about that. I am only asking you the position of the ves'el when you did cast off a part of that starboard hawser, and left how many turns?

A. Two turns, so as to be able to throw off in a second.

Q. But you didn't cast it off altogether?

A. Not at that time.

Q. Until after the collision, if at all?

A. Oh, before the collision I throwed it right off. When I ran to alarm the men that were——

Q. I am going to get to that. Did you cast that line off that night at all?

A. Yes, sir; threw it right off.

Q. Where was the *the* tug when you cast that line off?

A. Ran off to the westward of us, about abeam.

Q. How near was the ship's stem to you when you cast that off?

A. Perhaps she was 20 or 30 fathoms off.

Q. When you cast that line off?

A. Yes, sir.

Q. Then you cast it off altogether?

A. Yes, sir.

Q. Then your hawser was still fastened?

A. Yes, sir; that was still fastened.

228 Q. Let us hear what you had done. Up to that time you had simply partly cast it off, and then cast it entirely off, so far as your own action was concerned?

A. Yes, sir; all I did, I had that hawser in my hand.

Q. When you saw the ship take this shear you went to that hawser?

A. I was there before that.

Q. But you had taken it partly off?

A. Yes, sir.

Q. You had done that to allow the tug to pass over it?

A. Yes, sir.

Q. Well, the tug hadn't reached it when you cast that off.

A. Yes, sir; the tug was by.

Q. Not when you cast it off. I mean when you took off the part of the hawser.

A. The tug was by.

Q. Had the tug passed it?

A. Yes, sir.

Q. Had she done anything more than pass the bow of your boat at that time?

A. That is all.

Q. Then she hadn't got past your hawser?

A. Yes, sir; cleared the hawser.

229 Q. Then you cast it off?

A. Yes, sir.

Q. When you saw the ship coming, what did you do next?

A. I ran next to give them the alarm.

Q. Then you went into the cabin and called the captain?

A. Yes, sir.

Q. And then you came out?

A. Yes, sir.

Q. At that time had the ship struck?

A. Not exactly when I came out, but in a minute or two afterward.

Q. When you first saw the ship, for which part of your tug did she seem to be aiming?

A. Coming right square for her bow.

Q. That is, when you first noticed her, first saw her course.

A. Yes, sir.

Q. For what part of your bow did she seem aiming?

A. I could not tell; probably about midships.

Q. That is when you first observed her?

A. Yes, sir.

Q. She struck you how far from your starboard side?

A. Well, she struck me about half way between the midship part and the outside.

230 Q. That would make you about 8 or 9 feet from your starboard side?

A. Yes, sir.

Q. But in reality she struck into the starboard and amidships?

A. Yes, sir.

Q. What was the first thing that was done? Who was the first one who came on deck?

A. The captain was the first one who rushed up on deck.

Q. You had been on deck alone up to that time?

A. Yes, sir.

Q. When the captain came up the collision had taken place?

A. Yes, sir.

Q. And the ship and the dredge were in contact when the tug cast off the line, as you say, from the ship. Did you notice when it was cast off?

A. Yes, sir.

Q. Did you see it done?

A. Yes, sir.

Q. You are sure of it?

A. Yes, sir.

Q. Saw the line cast off?

A. Yes, sir.

Q. Whereabout was the line made fast?

A. On the bitts.

231 Q. Was it midship bitts? And you saw the men cast it off?

A. I saw the line cast off. I was away forward, but I saw the line immediately it was dropped.

Q. Then you do not know how it came off?

A. I knew it would not come off without some one throwing it off.

Q. Then that is the reason that you suppose that it was cast off?

A. Yes, sir.

Q. At that time how near had the stem got to you?

A. Perhaps she was more than half her own length off; well, probably little more than half her length. I was confident she was bound to hit us and would not clear us anyhow. That the ship and tug were apart at the time.

Q. The ship was a half length off?

A. Yes, sir.

Q. The hawser started from the tug anyway?

A. Yes, sir.

Q. Now, was your port hawser at any time let go?

A. It was afterwards.

Q. When?

A. Oh, some time after the collision. The captain ordered that to let it go so that she would spring round and bring the other end to windward; thought probably the sea would not then rush in.

232 Q. Your starboard hawser had been let go a long time before that happened?

A. Yes, sir.

Q. Now, at the time your port hawser was let go had the tug and the ship parted?

A. Oh, long before that.

Q. They were not together at all?

A. No, sir.

Q. That you are sure of?

A. Yes, sir. Do you mean the ship and dredge?

COUNSEL. I mean the ship and the tug. I want to know whether the ship and dredge had parted when your port hawser was let go?

A. No, sir; it was afterwards. She partly swung round before they did separate.

Q. Which way did she swing?

A. She swung with her head around to the westward.

Q. At that time—at the time the port hawser was cast off—had she swung either way?

A. No, sir.

Q. She hadn't swung off to the westward?

A. No, sir. The wind was a little on the bow.

Q. But she didn't swing to the westward?

A. No, sir.

Q. Didn't let go the port line, so that she would swing to the westward?

233 A. No, sir.

Q. How much had she changed from her position right up and down the channel when the ship and she separated?

A. Well, I could not exactly state.

Q. About how much?

A. She swung around so that her head was pretty well around to the westward.

Q. When they separated?

A. Yes, sir.

Q. That is, she was pretty much across the channel?

A. Yes, sir.

Q. When the ship and she separated?

A. Yes, sir.

Q. Do you know whether the topsails had been lowered and clewed up at the time of the collision?

A. No, sir; some time afterward.

Q. You are certain of that?

A. Yes, sir.

Q. Do you know whether they had been lowered?

A. No, sir.

Q. Were they set?

A. They were set.

Q. The leaches of the topsails were shaking, were they?

A. Only shaking.

M'r Steele:

234 You say the sails were shaking; at what moment—at the time she got at——

A. At that time they commenced to clew their sails up.

M'r Beebe:

Were they pretty busy at that time?

A. Yes, sir.

Q. What were you personally attending to?

A. In fact, I went down below two or three times to see how the water rushed in, and then I saw about the lowering of the boat—seeing that she was all right, lowering into the water, and everything in, &c.

Q. So that your attention was pretty fully occupied?

A. I was forward a good deal of the time, and there was one of the ship's chains that parted, took a kind of a turn round the A frame, and the tug-boat, he hitched onto him. I am sure he must to have hitched onto him. The ship was so high that I could not see the tug-boat, but according to the action she must have been hitched on, because this chain hauled so hard it would not go clear or a round turn. I got up to the top of the house to see if I could clear it, and it jerked us so that we thought it would jerk the whole top of the house off.

Q. All that time you were pretty busy?

A. Yes, sir.

Q. Was that the time that you were getting the boat out?

235 A. The rest of the crew had the boat out already.

Q. At that time had all hands got on deck?

A. Yes, sir.

Q. Was all the crew on board?

A. No, sir; about half of them.

Q. Did you watch there after that night?

A. Yes, sir.

Q. What dredge did you watch on?

A. I do not understand you rightly—watch on the sunken dredge?

Q. You didn't watch on the sunken dredge?

A. Yes, sir; I used to watch on that every night.

Q. Were you ever a watchman on either of the other dredges?

A. I was watchman then.

Q. My question is a plain one: were you the watchman, after that, on either of the other dredges?

A. No, sir. I used to make home on the dredges. I used to eat and sleep on the dredges.

Q. Do you know, after this collision, whether the dredges were hauled off the channel at night?

A. No, sir; I do not think so.

Q. Are you sure they were not?

A. No, sir; I would not say, because I did not pay enough attention for that.

Q. You did not pay attention enough to know whether they were
236 hauled out of the channel or not?

A. No, sir; I could not tell you anything about it.

Q. Then you cannot say whether they were or not?

A. No, sir; I could not say. I do not know anything about it. Probably if I belonged to one of them I should know all about it.

M'r Steele:

Do I understand you to say you put on the lights on the projecting part of the sunken vessel?

A. Yes, sir.

M'r BEEBE. Was there any complaint about it?

M'r TAGART. You asked if he watched.

M'r BEEBE. No, sir; I did not ask him that. I asked him whether he was watchman on either of the other dredges. I asked that for the purpose of seeing whether they were hauled out in the channel, and he says he cannot tell whether they did or not. Did you sleep on board one or the other every night?

A. Yes, sir.

Q. And take your meals on board?

A. At least in the day-time, but then after they got the scows down there—this one, for instance—I used to remain there.

Q. Staid on the scows?

A. Yes, sir.

Q. You always remained down there?

237 A. Yes, sir.

Q. And yet you are unable to say whether those dredges were hauled out of the channel at night?

A. I cannot tell anything about it.

M'r Wallis:

I thought I understood you at the commencement to say that before the tug-boat came up to you she whistled?

A. Yes, sir; she whistled several times on the way after they left the Craighill.

Q. To give you notice, I understood?

A. Yes, sir; to give us notice she was coming. They used to make it a rule coming along somewhere, to blow their whistle to notify me.

Q. After leaving the Craighill the tug here blew her whistle several times?

A. Yes, sir.

Q. Did I understand you to say you answered?

A. I did. I whistled once, and the line that was attached to the whistle—it used to go through a hole in the deck—and after I had whistled a decent sort of a whistle I let go and the line got caught, and I had to go around the deck on the side to the side door which was there to get into the engine-house to turn her valve there and stop the whistle. It blowed quite a long whistle.

M'r Beebe:

It kept blowing?

238 A. Yes, sir; I thought that was notice enough to let them know that I was awake.

M'r Wallis:

Your whistle was one of the two, and you gave that long whistle in reply, longer than you wanted to?

A. Yes, sir.

Q. What I understood you to say was your idea of the distance that the ship was from you at the time she took this shear.

A. She probably might be little over the length of her; that is, when she took the shear.

Q. What did you do as soon as you saw her shear?

A. I went and gave the alarm. I saw she was bound to hit us. She could not get clear no how. If he wanted to go one way or the other then he could not get clear; he was bound to hit.

Q. Could not have gone to the eastward?

A. No, sir; there was no room.

Q. How do you mean there was no room?

A. The distance was so short between the dredge and the ship there was no room. She would be struck before she got either side.

Q. So the moment you saw him you just rushed to give the alarm?

A. Yes, sir.

Q. And after you had seen the captain and given him notice, and came out on the deck a moment or two, then the collision took place?

239 A. Yes, sir. Excuse me a moment. The captain was in the ; he had just got out of the bed and to his saloon—the state-room door, when the collision took place.

Q. You had got on deck?

A. Oh, yes, sir; I was on the deck all the time.

Q. You came up from the cabin?

A. I did not go in at all. I only went to the door and called him.

BALTIMORE, *June* **12, '74.**

Court met pursuant to adjournment. Examination of witnesses in the case of John B. Curtis et al. vs. The steam-tug Virginia Ehrman and the ship Agnese was resumed.

Capt. **GEORGE LORD** recalled.

By M'r Beebe:

There is a single question that I desire to ask Captain Lord. You told us yesterday where these two cables that formed this wing were made fast; now, did they extend forward or aft?

A. Forward.

Q. You ran the cables along each side of the dredge this night?

A. They were made fast aft and laid over the chocks aft, and passed along each side of the dredge, and were put around bights for-
240 ward, and there they commenced to wing. They were laid forward by the bight of the line thrust over the forward bitt, leaving the dredge in position to serve as a breast line as well as a quarter line.

Q. At what did they commence to wing?

A. About ten feet from the forward end—the extreme forward end.

Q. You say they passed through the bight of the rope?

A. Yes, sir; the bight of the line was thrown over the bight forward.

Q. The line doubled?

A. Yes, sir; just a line thrown over. The line was passed aft.

Q. And run forward and then passed over the bight, so as to keep it from pulling out at the side?

A. Yes, sir.

Q. Were there any turns thrown around that bight?

A. No, sir.

M'r **ROBERT MUIR** sworn.

By M'r Steele:

Be good enough to state to the court whether you were on board of the dredge Charles Forbes, on the 25th of March last.

241 A. I was.

Q. In what capacity were you?

A. Mate.

Q. Were you on board at night when the collision took place?

A. I was.

Q. Will you state to the court what kind of a night it was?

A. It was a bright starlight and moonlight night.

Q. Do you know whether or not the lights on the dredge were burning?

A. They were.

Q. Describe, if you please, what lights they were there.

A. Two bright lights—signal-lights.

Q. Where were they located?

A. One forward, on the boom, and the other aft, on the flag-pole.

Q. Were they burning or not at the time of the collision?

A. They were.

Q. Did you leave the deck that night?

A. At half past 9 o'clock that night.

Q. Who was in charge of the deck when you left?

A. The watchman.

Q. Night watchman?

A. Yes, sir.

242 Q. Will you state when the collision took place—what you know in reference to it?

A. I suppose, between ten and half past ten o'clock; somewhere thereabout.

Q. Tell the court what took place where you were at the time of the collision.

A. I was lying in my berth.

Q. Go on and state what took place; whether you got up; what you saw; tell all about it.

A. I was lying in my berth when I heard a call from the watchman: "Turn out, all of you; there is a ship coming into us." I turned out, and came out of my room-door, and by that time she struck and knocked me a part of the way across the room.

Q. Did you go on deck then, or below; or where?

A. I got up and went back and put on my pants and boots, ran out then, and I saw there was a ship into us; and then the captain gave orders for to spread the fire, to get steam to start the pumps.

Q. That was the first order given?

A. Yes, sir; I went down and stirred the fire, and I saw the water coming in pretty rapidly, and then I went on deck after I saw the water coming in pretty fast. I saw it was not any use to spread the fires; we could not get steam up; we could see that by the way the water was coming in; the water was about eighteen inches on the ceiling.

Q. You could see it was coming in?

243 A. I did not go forward; I could see the water was coming in, but I did not go forward to look at the hole until—not in the hole.

Q. But the water was coming in too rapidly, you concluded, to be able to make fires?

A. Yes, sir.

Q. You then went on deck?

A. Yes, sir.

Q. What took place then?

A. The captain said, "Whistle for the tug-boat to come to us;" that we were sinking; one of the men, or the captain—I won't say which—whistled for the tug-boat; but we received no answer at all, and then the captain hallooed for the tug-boat to come to us, that we were sinking. He told us to start the pump. The captain said it was not any use to start the pump; that the water was coming in as big as a cask. He then hallooed to come and bring us a scow to try to keep her up. The captain answered, "How in the hell can I leave the ship to come to you?"

Q. What was done then?

A. Then the captain gave orders to me to slack the port quarter-line—the eastward quarter-line; to let her swing around and throw her bow up, and keep the sea from washing into her, to try to keep her up.

244 Q. Which quarter-line?

A. The eastern quarter-line—the port quarter-line.

Q. The captain ordered you to slacken that so that her bow could get around from the sea?

A. Yes, sir; I did so.

Q. Did she swing around then?

A. Yes, sir; she swung around to the westward.

Q. Did you look to see then what progress the water had made, or the amount of water she had in?

A. I looked down the hole and I saw the water was getting up pretty considerable into her; I cannot say how many feet.

Q. What was done then; was the boat got out?

A. Yes; the boat was got out; the boat was all made ready; the captain spoke to one of the other men who had the boat all ready while I was down spreading the fires.

Q. Did you finally leave the dredge in that boat?

A. I got into the boat, finally, with the captain, and left the dredge.

Q. What was the condition of the dredge then as to the water?

A. The last thing that I done with her, the captain said, "Blow the whistle for the tug-boat to come to us;" away I went and blowed the whistle and jumped down from the whistle and looked down into
245 the hold; there is a hatchway close to where I jumped out, and I looked and saw the water pretty nearly up to the top of it, and started to run aft, then jumped into the boat, and I ran through the water; I cannot say how deep it might have been.

Q. In running aft you had to run through the water?

A. Yes, sir; on the port side, as I ran aft I cut down the stern light. I had my knife in my hand and cut it down, and jumped into the boat and shoved off.

Q. Took the light with you?

A. Yes, sir; I wanted the light in the boat.

Q. Were you the last one who left the dredge?

A. Yes, sir; that was the last thing done on it.

Q. You say you did not go forward below; did you go forward on deck while the ship was in the dredge?

A. I did.

Q. Will you state to the court how far the ship seemed to be——

A. I could not say—I did not look particularly, having the ship foul of us.

Q. State whether or not the dredge was pressed at all in front upon the ship being in upon her, whether you saw enough to judge of that.

246 A. Yes, sir; pressed down. I could not say how much. I could not say how far she was into her because I did not take particular time to look how far.

Q. She was pressed down by the ship being upon her to a certain extent?

A. Yes, sir.

By the court:

How was the blow? Did the ship come into her at right angles? How did the ship strike the dredge?

A. Struck her forward.

Q. Did she strike at right angles?

A. I do not know.

Q. Strike her square in the bow?

WITNESS. Then you mean that?

A. Yes, sir.

M'r BEEBE. The blow was a direct blow with full head on rather than at right angles?

M'r STEELE. You mean she struck with her head on?

A. Yes, sir.

Q. How was the wind that night?

M'r BEEBE. No dispute about that; the wind was from the south and blowing fresh.

By Mr. Steele:

Was there a tolerable stiff breeze, or moderate, or no wind?

A. Pretty good breeze of wind.

247 Q. Could you say what sails were set in the ship?

A. I could see that she had some. I could not say what sails they were. I could see she had sails set.

Q. I understood you to say to the court that the light you took was burning when you took it into the boat?

A. Yes, sir; burning. After we got aboard of the other dredge I trimmed it up, took it back, and placed it on the wreck.

Cross-examination by M'r Beebe:

What time did you turn in that night?

A. At half past nine o'clock.

Q. How many hawsers did you let go or assist in letting go?

A. I let go one, that is, the eastern quarter-line—the port quarter-line.

Q. That was on the port side?

A. Yes, sir.

Q. That was the cable. Wasn't it the one that was fast to the cable?

A. One fast to the quarter-anchor.

Q. It was the cable the anchor was fast to?

A. Yes, sir.

248 Q. Do you know whether the starboard cable had been let go?

A. It might be; I could not say.

Captain EDWARD FIELDS sworn.

By M'r Steele:

Will you be good enough to state whether you are the captain of the steam-dredge Craighill, and were you on board on the night of the 25th of March?

A. I was.

Q. Will you state, if you please, to the court where your dredge was lying—whether she had been put into position, and under whose direction?

A. She had been put into position by the direction of M'r M'Cullough.

Q. Was she lying in that position that night?

A. She was.

Q. In that position which she had been placed by him?

A. Yes, sir.

Q. Will you be good enough to state whether there were lights on board of her?

A. Yes, sir.

Q. How many, and where were they located?

A. Two signal-lights, one forward and one aft.

Q. About how high?

249 A. They were about the same height of that of the Fobes.

Q. The dredges were of the same character?

A. Yes, sir; the same.

Q. Do you know whether those lights were burning that night?

A. They were burning brightly.

Q. Were you on deck on or about the time this collision took place, or after it took place?

A. I was.

M'r **Beebe**. Which?

M'r **Steele**. Before or after?

A. I was on at the time she passed us.

Q. You were on deck at the time she passed you?

A. Yes, sir.

Q. Just before the collision?

A. Yes, sir.

Q. Were your lights then burning?

A. Yes, sir.

Q. Did you go below or remain on deck?

A. I went into the saloon after the ship passed us.

Q. How near did the tug and ship pass your dredge?

A. I should judge they were about 35 or 40 feet from the dredge.

Q. Did they strike any of your hawsers, or were the hawsers slacked, or what took place?

250 A. The tug did not touch them, but the ship carried away the breast-line and struck the quarter-line.

Q. Have you heard the mode described in which the Fobes was anchored out—with one anchor astern and one at each quarter?

A. Yes, sir.

Q. Is thathe same way that yours were?

A. Only I had two breast-lines. My quarter-line was not laid forward as his was. I had two breast-lines out.

M'r Beebe:

Your quarter-lines were aft?

A. They were aft, leading forward; they were not on deck as his were.

M'r Steele:

Not carried forward, but put behind the bit'?

A. No, sir.

Q. But they were out from the point where they left the vessel aft?

A. Yes, sir.

Q. Then you had two breast-lines?

A. Yes, sir.

Q. One of the breast-lines was carried away by the ship and one of your quarter-lines was struck?

A. Yes, sir.

Q. Did you observe what sails the ship was carrying?

251 A. She had the most of her square sails set.

Q. Will you state what kind of a night it was?

A. It was a very clear night; fresh breeze from the southward—stiff breeze.

Q. How far could you see the light such as you had on board the dredge on such a night as that?

A. Could see the light three miles that night—such lights as we had aboard.

Q. They were white signal-lights?

A. Yes, sir.

Q. Will you be good enough to state to the court whether or not you whistled to this tug and ship as they were approaching here?

A. There was no whistle given on board of us that night.

Q. Could the buoys around the eastern edge of the channel be seen at night?

A. They could at night.

Q. Was there any difficulty in seeing them such a night as that clear night?

A. No, sir.

By the court:

Do you know the depth of water outside of the Craighill Channel to the westward?

A. I do not.

Cross-examination by M'r Beebe:

252 Did you see any buoy that night?

A. I did.

Q. Which one?

A. The buoy on the eastern side of the channel.

Q. How near abreast you was it?

A. Only a short distance.

Q. Did you see more than one that night?

A. No, sir.

Q. And you had breast-lines out on each side?

A. Yes, sir.

Q. You have heard the place mentioned and described by the other witnesses where the lights were placed on the Fobes?

A. I did.

Q. Were your lights hung in a corresponding place on your own vessel?

A. Yes, sir.

Q. On the boom and the aft flag-staff?

A. Yes, sir.

Q. How near to you did the tug pass?

A. I should judge about 35 or 40 feet.

Q. Then the tug and the ship passed very nearly on the same line; as near as you can judge, on the same line? Is that true?

A. Yes, sir.

Q. When you went in the saloon?

A. Yes, sir.

253 Q. And saw nothing more until after the collision?

A. Yes, sir.

By Mr. Wallis:

You say there was no whistles given from on board your dredge that night?

A. No, sir; none at all.

Q. Did the whistle on board the tug sound as she came up to you?

A. I did not hear any whistle at all. What alarmed me was the watchman coming in and saying there is a ship right close on to us.

Q. Where were you at the time he came in ?

A. In the saloon.

Q. You had not gone to bed ?

A. No, sir.

Q. You heard no whistle as they approached ?

A. I heard no whistle at all.

Q. You are quite sure you answered none ?

A. I am sure there was none blowing.

GEORGE P. McCLEMENTS sworn.

By M'r Steele :

Be kind enough to state to the court whether or not you were on board the dredge Craighill on the night of this collision.

A. Yes, sir; I was there.

Q. In what capacity was you employed on board ?

254 A. Blacksmith.

Q. Were you on deck at the time the tug and ship passed there ?

A. Yes, sir.

Q. Will you state whether or not there were two whistles given by the dredge to the tug ?

A. There was not any.

Cross-examination by M'r Wallis:

Any from the tug to the dredge ?

A. No; not that I heard; before I came out of the dining there might have been before she came up.

Q. How close was she when you got out ?

A. When I went out the tug had gone past; the line between the ship and the tug-boat was right abreast of us when I got on deck.

Q. There might have been a whistle from the tug before you went out ?

A. There might have been; I cannot say. There was none on board the machine.

MARION BELL sworn.

By M'r Steele :

Will you be good enough to state if you were on board the dredge Craighill on the night of this collision ?

A. I was.

255 Q. In what capacity were you ?

A. Engineer.

Q. Were you up at the time the tug and ship passed ?

A. I was.

Q. Were you on deck or in the saloon ?

A. In the saloon.

Q. Will you be good enough to state to the court whether or not there were two whistles given by the dredge to the tug ?

A. Not any at all.

Q. You were the engineer ?

A. Yes, sir.

Q. Did you observe whether there were lights up on the dredge that night ?

A. There were.

M'r WALLIS. On which dredge ?

M'r STEELE. On the Craighill.

Q. Could you see the Fobes—whether lights were up on the Charles Fobes or not ?

A. Yes, sir; I saw there were lights there burning brightly.

Q. You say that when you got on deck the tug had passed and the turns were just abreast ?

M'r BEEBE. No; it was not this witness who said it; it was the last witness.

256 WITNESS. The tug was right abreast of our bow then when I went out.

M'r Steele:

How near abreast ?

A. I should judge 35 or 40 feet, as near as I could judge.

Q. Do you know the fact whether any of the lines were carried away by the tug or the ship ?

A. The tug passed very clear, but the ship carried the breast-line and struck the quarter.

Cross-examination by M'r Wallis:

Carried away the breast-line, and then she came to the hawser ?

A. She struck the breast-line first before she came to the hawser.

Q. Did she pass over the hawser ?

A. Yes, sir; slacked up and scraped it very hard.

Mr. Steele:

It was slacked up ?

A. Yes, sir.

M'r Wallis:

Not slacked up at all ?

A. Always slack up before they come close enough.

Q. Did you observe it that night whether it was slacked up before she hit it ?

A. Yes; before she got there.

Q. How could she hit it if slacked up ?

A. So close to it the line did not sink low enough, I suppose.

257 M'r Beebe:

It was slack ?

A. Yes, sir; I observed that. I saw the watchman slack it. I won't say it was a watchman; I saw only a man slack it; it was slack any how.

Q. Did you hear any whistle from the tug ?

A. No, sir.

Q. You heard nothing ?

A. No, sir.

By M'r Beebe:

How fast do you think they were going ?

A. To the best of my judgment, about 8 or 9 knots an hour; probably more.

GEORGE BAMBRICK sworn.

M'r Steele:

Will you be good enough to state to the court whether you were on board the Craighill on the night of this collision ?

A. Yes, sir; I was.

Q. In what capacity were you ?

A. Deck-hand.

Q. Were you on deck about the time the tug passed ?

A. Yes, sir ; I was on deck.

Q. Did you see the tug and ship pass ?

A. Yes, sir.

258 Q. Will you state whether or not the dredge whistled first to the tug?

A. No; it did not whistle at all.

Q. You were on deck ?

A. Yes, sir.

Q. Who was on deck besides you ?

A. The captain and engineer and blacksmith.

Q. That was after they came out of the saloon ?

A. Yes, sir.

Q. Had you been in the saloon, too ?

A. Yes, sir.

Q. And came out when the vessels were approaching ?

A. Yes, sir.

M'r Beebe :

The saloon is on deck, isn't it ?

A. Yes, sir.

Q. Do you know where the watchman is who was on board that night ?

A. Yes, sir.

Q. Where is he now ?

A. He is out west, I think.

Q. He has left ?

A. Yes, sir.

Cross-examination by M'r Wallis :

Did you hear no whistle at all from the tug as she came up ?

A. No; I did not.

259 Q. Not after she passed you, either ?

A. No; I went into the saloon after she passed.

M'r Tagart :

All went into the saloon ?

A. Yes, sir ; all except the watchman.

M'r Beebe :

Did you continue to work on this dredge until this job was finished ?

A. Yes, sir; I did.

Q. How long had you been attached to the Craighill ?

A. Only about five months.

Q. Had you been at work at that channel at any time during that time, during 5 months you had been upon the Craighill ?

A. No, sir ; not in that part of it.

Q. Had you been in that channel—had you been at work in that channel during the 5 months ?

A. No, sir ; not where we were stationed then.

Q. Anywhere below the 7-foot knoll ?

A. No, sir.

Q. You continued to work until this contract was finished ?

A. Yes, sir.

Q. After this collision, what was done with the dredges at night ?

A. There was nothing done with them.

Q. Were not they hauled out of the channel?

260 A. No, sir.

Q. At no time?

A. No, sir.

Q. Are you sure of that?

A. I am.

Captain EDWARD FIELD recalled.

M'r Steele:

State whether or not, after this collision, you removed your dredge at night from the place where she worked during the day.

A. We did not.

M'r Beebe:

Changed your position at all?

A. Not at all at night; we lay just where we left off work.

CHARLES FOBE' sworn.

M'r Steele:

Will you be kind enough to state to the court, in connection with this matter, how long your dredges had been employed here at work; within what months had they worked here before?

A. We had been at work here in all since July, two years ago this coming July.

Q. Had you done any work in this Craighill channel before?

261 A. We had completed a contract for 250,000 yards below the 7-foot knoll, in the vicinity where we were at work at this time.

Q. After you had taken out that 250,000 yards in the Craighill channel, then I understand you were at work in the channel higher up?

A. Yes, sir; we completed that contract and took a contract in the Fort McHenry channel, as it is called, between the two forts, of 750,000 yards, and had nearly completed that; and not having material enough to fill the contract——

M'r BEEBE. We do not care about the reasons.

WITNESS. By the verbal contract with Col. Craighill, we took the balance out of the lower channel.

M'r Steele:

By verbal contract with Col. Craighill, you took the balance out of the lower channel?

A. Yes, sir.

Q. How much was there to take out; how many cubic yards?

A. I won't say; but I think it was something over—somewhere near 130,000 yards; something like that; I believe it was between 130,000 and 150,000 yards.

Q. At the time of the collision what amount of cubic yards remained to be excavated in the Craighill channel?

262 A. Between 60,000 and 70,000.

M'r Beebe:

Is it not perfectly true what Col. Craighill has stated?

A. Yes, sir; about 54,000 and some odd yards.

M'r Steele:

What was the price you were to get?

A. 22 cents a yard.

Q. The amount as calculated there, how much would that be?

A. It is $11,982.30.

Q. Will you be kind enough to state to the court whether or not, prior to this collision, you had obtained permission from M'r Hutton or Col. Craighill, or consent, I should perhaps term it, to take one of your dredges to Norfolk?

M'r **Beebe**. That we object to as irrevelant.

M'r **Steele**. We have already proved it by M'r Hutton; we think it is clearly evidence. The object of that testimony is in reference to the question of damages, and it seems to me the evidence is very clearly admissible. It becomes necessary to show, in looking to the demurrage of this dredge, what we are entitled to recover for the lost time, and what would have been her probable earnings but for the accident. That it becomes necessary for us to establish before the court. Well, she was here not contracting to do this work, as my brother seems to sup-
263 pose. There was no contract that this particular dredge, or even 3
dredges, should be employed, and 3 dredges already there, because 3 dredges had been at work in the other portion of the channel, an' we desire to prove now that M'r Fobe' had a contract in many other places at Norfolk. One of these dredges was to go on to Norfolk for the purpose of fulfilling that contract. By reason of this accident a number of dredges here was reduced to 2, so that he could not send; therefore the vessel lost that time; and I think if our brothers here would allow the whole testimony so that your honor could see the connection and the different parts of it, then the question as to admissibility of the evidence, and its effect, could be more understandingly passed upon by your honor, and I would therefore suggest, your honor, to let the testimony come in subject to exception, they not to be bound by it if your honor should hereafter hold it to be inadmissible.

(Objection overruled and exception reserved.)

Q. Will you state whether or not you had obtained the consent of M'r Hutton that he might remove one of your dredges to Norfolk to fulfill a contract there?

A. A day or two previous to the collision I entered into a contract with M'r Chamberlin to do certain work at Norfolk. We had been
264 to the office, or, to go back, we were to commence work the first
day of April at Norfolk under the contract, and I went to the office and got permission of M'r Hutton to remove one of the dredges there from the work here to complete it there.

Q. Which was the one to be sent down?

A. The General Thom.

A. And employed the Fobe' on the contract here?

A. Yes, sir; on account of its being decked; then she was narrower than the others and not so wide.

Q. What was the contract-price?

A. 25 cents a cubic yard.

Q. That was rather higher than the contract with the Government?

A. Yes, sir.

M'r Beebe:

That was going to be done by another boat. I do not see how that is going to enure to the benefit of the Fobe'.

Witness. I might state that we should have sent the Thom notwithstanding the dredge had been sunken, if I had been able to attend to it and gone with her. I wrote M'r how we were situated and got the matter deferred until I could come over with the dredge.

Q. Will you be good enough to state to the court how long a time it was before the Fobe' was raised and repaired, so as to be ready for work again?

265 A. She was ready to work——

M'r **BEEBE.** To that I claim to raise an objection. Now we are informed—as a matter of course, on this question of damages we are very much at sea, but we are informed that a large amount of work was done upon that boat which was not included in these damages, and therefore until that is proved this other question is not a proper question, whether there was anything more done to her necessary to repair the damages.

WITNESS. I will state to the court that the dredge is not ready for work yet, but so far as the damages done by the sinking she was ready the 3rd day of this June.

The court:

Did you superintend the repairs?

A. I did.

Q. Who was the ship-carpenter?

A. Wellener and Sons.

Q. From the 25th of March to the 3rd of June, 1874, you were occupied in the repairs?

A. In raising her.

Q. In the repairs?

A. Yes, sir.

Q. How long were you in raising her?

A. 22 days, I think it was.

M'r Steele:

You say on the 3rd day of June, so far as the repairs of the dam-
266 age which had been done to her by the collision was concerned,
it had been repaired by the 3rd of June?

A. Yes, sir.

Q. There was some other reasons why it was not ready yet?

A. Yes, sir; we made some changes of our own which detained her longer.

Q. As you have stated, did it take you 22 days?

A. I think it was about that.

Q. Did you make any inquiries here as to the price that those employed in raising vessels would charge for raising her?

A. I did after the collision. I went to Col. Craighill, who was absent, and M'r Hutton told me that we must get her out of the channel just as soon as possible. I then telegraphed to Baker and Bro. of Norfolk to see what they would raise her for. They replied——

M'r **BEEBE.** (Objected to by M'r Beebe; objections overruled.)

Q. Will you state whether, after having made this application to Baker and Bro., you undertook to raise the dredge yourself?

A. I then commenced to raise her, thinking it could be done at much
less price and a good deal shorter time than I could get it done
267 for by others. More than that, we should have to wait, I think
it was 10 days, I think he said, before he could get to work on
her.

M'r **WALLIS.** Do you mean that the Baker Brothers said that it would take 6 weeks?

M'r **STEELE.** They would not agree to take her up in less than 6 weeks.

M'r **WALLIS.** Did they mean that it would take 5 or 6 weeks to take her up, or that it would be that length of time before they could undertake to do it ?

WITNESS. The Craighill channel is a very rough place, as will be seen by the advertisement by Col. Craighill. It is ordinarily not over 20 days in a month that we are able to work there, on account of the roughness. That is one reason we were so long raising her.

The court:

Did you superintend it, or employ somebody ?

A. I superintended it myself.

Q. What force had you ?

A. The crew of the dredge that had been sunken and from 6 to 8 riggers, as occasion required; sometime' we would have more and sometime' less.

Q. Did you have the tug ?

A. We did.

Q. Whose tug was it ?

268 A. Our own.

Q. What do you charge for that by the day ? What would *it* be a fair rate of compensation ?

A. We never chartered her for less than 100 dollars a day. We have had her laying at Norfolk last week for $100 demur'age. In our bill we charge for it $75 a day for the tug and crew.

The court:

At what date did you get to work ?

A. The next day after she was sunk we engaged the logs to raise her with, or a portion of them, and took the scow and the logs under shears and put them onto the scows, as that was a more expeditious way of getting them on, and went below the next day and commenced work.

M'r Steele:

Did you proceed as rapidly as you could in raising her ?

A. We didn't leave her a day or a night until she was raised, except at such times as it was impossible to do anything, when it was so rough or windy we couldn't do anything.

Q. The tug for 22 days at $75 a day (for the tug and crew) would be $1,650 ?

A. Yes, sir.

Q. How many scows did you employ ?

269 A. 2, one on each side of her.

Q. What do they hire for a day usually ?

A. We have never let them for less than $30 each, that is what I was to charge M'r Baker or Cap'n Stoddard, if he raised the dredge, as he wanted the use of them; but I have charged them in the bill as high as 30 for the two.

Q. Usually hired at $30 apiece ?

A. Yes, sir.

Q. And charge them here at $15 apiece ?

A. Yes, sir.

Q. How was J. W. Williams employed ?

A. He had some screws and riggin's, and a portion of his crew—we had his men.

Q. Have you got his bill ?

A. Yes, sir; his bill is here.

Q. How much is that ?

A. 516.37. The heft of his bill is, I think, for the use of the screws, screw hire, 17 days, at $16 a day.

Q. R. A. Scott; in what capacity was he employed ?

A. He was one of the riggers M'r Williams had there at first, and afterwards——

Q. What is the amount of his bill ?

M'r **Beebe.** I hope you do not consider the mere proving of
270 these bills in this way as evidence of their fairness or correctness ?

M'r **Steele.** All that I can do is to offer the bill and prove by him that is the cheapest he could get it done.

M'r **Beebe.** You don't see that follows?

M'r Steele :

If we show too much you are at liberty to do it.

Q. How was Scott employed ?

A. He was employed in raising the dredge.

Q. What is his bill ?

A. $652.50. I might make an explanation of this bill. At first M'r Scott went down there for M'r Williams as one of the riggers. We had got the scows arranged alongside of the dredge, and the timbers and screws set and the strain on; started the dredge from the bottom twice, when it became rough and blew her blocking down; our scows drifted and we got them all ready for raising in a short time, and we had worked the night before and all day that day, and I was fearful that we should not be able to raise her before there came another blow, and M'r Scott and the rest of the crew decided they would not work any longer, but I finally made arrangements with M'r Scott and the crew of riggers there that with our assistance he would go on and continue as we
271 wanted him to, until the dredge was raised, for the sum of $600,
in order to take her up that night. We worked all that night and succeeded in getting a strain on her and getting her from the bottom, so that when it became rough it didn't blow her to pieces again. All we had to do was to clear the bottom. His bill was $602.50.

Q. Were these services necessary to raise *those* ?

A. I do not think unless we could have made these arrangements she could have been raised ten days after the time she was. If it come rough weather, it would have thrown her to the bottom again; thrown all the logs adrift, and they could not have worked so fast.

Q. Wendell Bollman ?

A. That is for the diver. As we raised her from the bottom we found it was impossible to get to her from the west here unless we pumped her out. We employed a diver to go down and patch the rent so that we could float her to put her onto the dock; we charged $160 for that.

The court :

You have got bills for all paid ?

A. Yes, sir.

Q. What did the raising cost and bringing her to Baltimore ?

A. $4,167.73.

Mr. Wallis :

Was that exclusive of the use of the tug ?

272 A. Including it and scows.

Mr. Steele :

Is that more or less than the proposals of Mess'rs Baker*s* ?

A. Mess'rs Baker's price was $4,500. We have here their terms.

The witness here read as follows :

OFFICE B. AND J. BAKER & CO., CAMPBELL'S WHARF,
Norfolk, Va., March 30, '74.

Mess'rs CURTIS & FORBES,
No. 22 S. Broadway, Baltimore, M'd.:

GENTLEMEN: We have consulted together and determined upon the enclosed estimate for raising your dredge. We will furnish any or all of the materials mentioned for the prices stated, or we will raise, deliver her at the railway in Baltimore, for the sum of forty-five hundred dollars, ($4,500.)

Yours, truly, &c.,

B. J. BAKER & CO.,
Per KIRBY.

The WITNESS. In the enclosed is a list of prices for different materials if we might want them for a day.

Q. Materials you would need in raising her?

273 A. Yes, sir. He charges here for the use of the dredging steamer, when the tug answered the same purpose, $100 a day.

The witness then read as follows:

Estimate of materials for raising dredge:

Planet Mars at $25.00 per day.
Hoisting-machine at $20.00 per day.
" " at half-rate when not used.

Diving-apparatus & diver at $30.00 per day. Diving-apparatus & diver half price when not used. Wrecking-steamer, with crew of same, and her general appliances, $100.00 per day; half-rate when not used, lying still. Screws, tuggles, & bearers, for 4 sets for the job, $200.00. Use of chain, including repairs, 2 cents per pound. Two steam-pumps, while in use, $30.00 per day, and $10.00 per day while not in use. Four gins, with blocks, falls, &c., for each $200.00. Three sticks of timber, for the job $400.00. Superintendent $15.00 per day. 10 extra good men and board $25.00.

M'r Steele:

Did you or not make the best terms you could?

A. Yes, sir; just the same as if I was doing it for myself.

Q. You used all the diligence you could?

274 A. Yes, sir; all that any one could. We had but three favorable days while we were there. The weather was rough.

Q. Was it in April?

A. Yes, sir. I' March and April.

Q. Have you the bills for the carpenter's work, and the work done for the machinery?

A. Yes, sir; we have the bills in that account.

The court:

What did the repairs cost?

A. The raising and repairs cost some $10,000 and odd dollars.

Q. I mean independent of the raising, what did the repairs cost?

A. A little over $6,000.

M'r STEELE. I can tell you in a moment the precise figures. I find it $6,489.33.

The court:

Have you got all the bills?

A. Yes, sir. I believe they are all here; if not, I have them.

Q. Here is a bill of M'r Wellener for $1,144.57. Did M'r Wellener do the carpenter's work in these repairs?

A. He did.

Q. Was the bill, in your judgment, a reasonable one?

A. It was.

275 M'r BEEBE. We object to that because he has exhibited no such evidence of being an expert as would enable him to say. But whether he is an expert or not——

WITNESS. I superintended the building of three of these machines. I do not know whether I am an expert or not.

M'r STEELE. You understand it very well?

WITNESS. Yes, sir.

M'r BEEBE. I have built 300 houses, and yet I do not profess to be an expert.

Q. Does your firm own many of these machines?

A. Four of them.

Q. You have superintended the building of three of them yourself?

A. Yes, sir.

M'r Steele:

I see the next bill of I. F. Simpson, joiner, for $856.71. Was he employed by you to do the joiner's work?

A. Yes, sir.

Q. Did he do the work you employed him to do?

A. Yes, sir.

Q. You have paid his bills?

A. I think M'r Simpson's is not yet. There are two not settled and M'r Simpson's is one. The others are all settled. There is a bill of M'r Simpson's and Ellis for $25 or $26 that are not paid.

Q. E. F. Codd & Co., machinist', $708.92. Were they employed by you to make repairs to the machinery?

276 A. Yes, sir.

Q. Did they do their work to your satisfaction?

A. They have. And as expeditious as possible.

Q. That bill you have paid as correct?

A. Yes, sir.

Q. Sherwood and Hergesheimer & Bro's, blacksmiths. One having a bill of sixty-five dollars and sixty-five cents, the other on' one hundred and forty-eight dollars and ninety-six cents.

A. I will explain why we had two blacksmiths' bills. It was for this reason: M'r Sherwood was right close by the yard, being right near the ship-yard, and when we required boats or anything of that kind, it was much more convenient to run over and get the dimensions and could be done more expeditiously than to go to Herkesheimers'.

Q. They were employed by you to do blacksmith's work that was necessary in these repairs?

A. Yes, sir.

Q. Portland Co., $403.43. What was that?

A. That was for heavy casting which is at the head of the "A" frame and for the friction woods. Our work is all done by heavy frictions, and we went to them for that work because they had the patterns, which patterns, probably, if we had them done here would have cost double or treble the cost of the bill that was rendered us.

277 Q. Telegram to B. & J. Baker, 65 cents. Tug J. Bullock, $18. What was that for?

A. I found M'r Williams' screws were not sufficient, and, besides, we lost one overboard, and had to come here for more, and the Bullock took those screws down to the wreck for us.

Q. Freight on castings, $12.96?

A. Those came from Portland; castings and friction.

Q. J. Wells & Son, $25.98?

A. They furnished some machines.

Q. James M. Whiting & Co., $173.22.

A. They furnish iron and tools. The bill there will ex——

Q. Was that the amount of the iron you bought from them?

A. Not all iron.

Q. Whatever it was.

A. Yes, sir.

Q. Was what you bought from them for the necessary repair of the vessel?

A. Yes, sir; there is nothing in that account but what was used and necessary for the repair of the dredge.

Q. For the repair of the damages she had sustained by this collision?

A. Yes, sir.

Q. Loud, Claridge & Co., $252.29.

278 A. They furnished some oils and some rope to the wreck. I think, two coils of rope, they furnished. Our lines were on deck, and of course when that sunk those that were on deck fell off.

Q. Is their bill correct?

A. Yes, sir.

Q. The lines that were bought to replace those that were lost in the sinking of the dredge?

A. Yes, sir.

Q. Holmes & Co., $101.06.

A. They furnished the engineers' supplies, such as packing, oil-cups, and such things as those.

Q. Lambdin & Waddy, $128.61.

A. They furnished canvass to cover the house on the dredge.

Q. Was it necessary to have it?

A. Yes, sir; absolutely necessary.

Q. A. Steffins, $166.73.

A. He furnished supplies, such as paints, oils, &c. We used to go there for paints and oils, as it was much nearer than coming up town.

Q. Cumberland Dugan, $80.64.

A. Our boiler was covered with felting, and he furnished the felting to re-cover it.

Q. J. S. Beachem & Bro., $16.80.

A. We got some stakes from them, not having enough at first while
there. We got one or two plank to use in raising her. That
279 bill was for this plank. We used the plank afterwards in the
repair of the dredge.

Q. H. Boss, $14.19.

A. That was for some oil-cans.

Q. R. H. Diggs & Son, $4.10.

A. That is for some cement and resetting of fire-boxes.

Q. A. J. Hubbard, $24.20.

A. That is for blocks.

Q. P. M. Brown, $19.42.

A. That was for some chairs. Chairs and everything of that kind were destroyed or floated away, and these were to replace them.

Q. Tho's H. Hanson, $33.50.

A. I do not remember that now.

Q. Here is a bill of M'r Wellener for $1,144.57. Did M'r Wellener do the carpenter's work in these repairs?

A. He did.

Q. Was the bill, in your judgment, a reasonable one?

A. It was.

275 M'r **Beebe.** We object to that because he has exhibited no such evidence of being an expert as would enable him to say. But whether he is an expert or not——

Witness. I superintended the building of three of these machines. I do not know whether I am an expert or not.

M'r **Steele.** You understand it very well?

Witness. Yes, sir.

M'r **Beebe.** I have built 300 houses, and yet I do not profess to be an expert.

Q. Does your firm own many of these machines?

A. Four of them.

Q. You have superintended the building of three of them yourself?

A. Yes, sir.

M'r Steele:

I see the next bill of I. F. Simpson, joiner, for $856.71. Was he employed by you to do the joiner's work?

A. Yes, sir.

Q. Did he do the work you employed him to do?

A. Yes, sir.

Q. You have paid his bills?

A. I think M'r Simpson's is not yet. There are two not settled and M'r Simpson's is one. The others are all settled. There is a bill of M'r Simpson's and Ellis for $25 or $26 that are not paid.

Q. E. F. Codd & Co., machinist', $708.92. Were they employed by you to make repairs to the machinery?

276 A. Yes, sir.

Q. Did they do their work to your satisfaction?

A. They have. And as expeditious as possible.

Q. That bill you have paid as correct?

A. Yes, sir.

Q. Sherwood and Hergesheimer & Bro's, blacksmiths. One having a bill of sixty-five dollars and sixty-five cents, the other on' one hundred and forty-eight dollars and ninety-six cents.

A. I will explain why we had two blacksmiths' bills. It was for this reason: M'r Sherwood was right close by the yard, being right near the ship-yard, and when we required boats or anything of that kind, it was much more convenient to run over and get the dimensions and could be done more expeditiously than to go to Herkesheimers'.

Q. They were employed by you to do blacksmith's work that was necessary in these repairs?

A. Yes, sir.

Q. Portland Co., $403.43. What was that?

A. That was for heavy casting which is at the head of the "A" frame and for the friction woods. Our work is all done by heavy frictions, and we went to them for that work because they had the patterns, which patterns, probably, if we had them done here would have cost double or treble the cost of the bill that was rendered us.

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Q. Tho's H. Hanson, $33.50.

A. I do not remember that now.

Q. It was for some small mattrasses.

A. Oh, yes; mattresses.

By the court:

Were they destroyed by the sinking?

A. Yes, sir; the house was entirely destroyed, and everything of that kind floated away.

Q. How long was she below water?

A. Sixteen or seventeen days. I remember that that was for a bent-top wooden chair. It is a chair where the back bends round higher at the one end than the other. It had just a common wooden bottom.
280 It was a very strong chair. It was the same we had there before. We had twelve, and lost six of them. We replaced those other six.

Q. Then there were half a dozen of them at one dollar apiece?

A. Yes, sir.

Q. Bibbs & Co., $46.75.

A. That was for a stove. The stove was destroyed.

Q. Tho's Rice & Son, $35.25.

A. He was a block-maker.

Q. J. Brown & Son, $83.00.

A. That was for some rubber hose; siphon hose for washing the deck.

Q. Had you a hose before?

A. Yes, sir.

Q. Were they lost?

A. Yes, sir.

Q. D. B. Smull's Sons, $37.05.

A. The most of that is for crockery—earthen ware.

Q. Was it to replace what had been on board before?

A. Yes, sir; and cooking-utensils.

Q. Two oak dipper-poles?

A. They were dipper-poles seen there in the photograph. We replaced them. They are used to guide the dipper as it is raised up.

Q. Was that a proper price for them, $25 apiece?

A. Yes, sir; that is what they cost us.

281 Q. One oak spud, $60.00; was that a proper price?

A. That is the cost of those to us here, fitted up; but it was broken when we took it out. We had to raise a purchase to take it out before we could raise the dredge, and in fact it was broken when she sank. It protruded from the bottom, and it was cracked when we pulled it out of the spud-hole. We put it on the deck, and one of those rough squalls came along and took it overboard. The iron on it sunk it.

Q. Provisions lost, $29.40.

A. That was the amount of the provisions bill that we had just taken down.

Q. You paid the wages the same as when they were working on the dredge?

A. Yes, sir.

Q. And since the dredge has been raised they have been employed on the dredge all the time? That is, they cleaned the dredge up, and cleaned the machinery, instead of employing mechanics to do it? They understood the work and they did it?

Q. They have been at work during the whole period?

A. Yes, sir; and are yet.

Q. Was there much mud in the vessel on the machinery?

282 A. Yes, sir, there was a great deal of it; all the machinery, different parts of the engine, the pipes, and boilers, and in fact the whole of it, was covered. It was worked into the cylinders so we had to take apart every joint and connection of the whole machinery. We had to take it apart because it was full of grit and dirt.

Q. Rusty any?

A. Very much. The engines, and shaft, and journals; in fact, the whole of it was very much rusty, and is now.

Q. The cleaning of the machinery, then, and of the vessel itself, would take some time?

A. Yes, sir; it involved a great deal of labor, which was performed by the crew.

M'r Beebe suggested to the court that it would be to the advantage of all to have little matters of detail in regard to accounts referred to a commissioner or auditor, to ascertain the correctness and reasonableness of the amounts charged, thus saving the time of court & counsel, by relieving them of the labor which such tedious examinations necessarily entail.

The court, after having listened to the views as expressed by the different counsel, intimated that, owing to the increasing business
283 of the court, and the time and labor that the adoption of such a course would save, that he was disposed to consider favorably the proposition.

The libellants here closed their testimony with a statement that there *was* two or three deck-hands whom they had thought of calling, but as their testimony would be only cumulative, they would not do so.

M'r Wallis, counsel for owner of steam-tug Ehrman, then proceeded to introduce testimony for defence.

ISAAC J. ANDERSON sworn.

By Mr. Wallis:

State whether or not you were in command on the night this collision took place.

A. I was, your honor. On the night of the 25th of March I was master on the Virginia Ehrman.

Q. How long have you been in command of her?

A. Ever since she was launched; somewhere in the neighborhood of three months.

Q. How long have you been following the sea?

A. Ever since I was 13 years of age.

Q. How long ago was that?

A. I suppose about 33 years.

284 Q. Have you been in the habit of sailing the river and bay during that time?

A. Yes, sir.

Q. State the incidents connected with this collision, without my examining you particularly in regard to them.

Q. What for?

A. In order that I might get the hawser. The ship was going very rapidly through the water.

The court:

In order to slacken her speed?

A. Yes, sir. I asked him to pass me the hawser off the starboard

board. After taking the end of the hawser, the bight of my hawser, you understand, hanging in the water, and the two suctions of the vessel, I could not get away from her. The pilot then took in his top-gallant sail. Finally we succeeded in getting ahead of the ship. But I am a little ahead of my story. The pilot replied, "Which way are you going; through the Craighill Channel?" I says, "I am." He says, "Then I will keep the sail of the ship up, in order to help you." My reply to him was, "All right." I then proceeded along up the bay, and come to Sandy Point; altered my course for Craighill Channel. In entering the Craighill Channel I found the machines lying there in
285 the centre of the channel. I blowed my whistle some.

Q. How many machines?

A. There were three.

Q. How were they lying?

A. Nearly north and south.

Q. Were they out of line or in line?

A. They were near in line as they could be. I blowed my whistle in order to draw their attention on board the ship and let them know there was somebody ahead and also on board the machines, to let them slack the lines down.

Q. How far from the dredges did you do that?

A. About a mile or a mile and a half, more or less.

Q. You sounded your whistle in order to give notice to the ship and dredges that you were approaching?

A. Of course.

Q. Between that and the time you got up to the first dredge did you sound your whistle again?

A. I did, and finally they gave me two whistles from the first machine, which I took as a signal to the westward. The ship passed the first machine.

Q. When you came up abreast of the first machine did anything place between you and any person who was upon her deck?

WITNESS. Upon the deck of whom.

Q. Of the first dredge?

A. Not a word said.

286 Q. Was there anything said by you to the watchman or person on the deck there, the first machine, as regards lowering the hawser?

A. No, sir.

Q. Did you see?

A. I saw one man standing upon her deck, which was by the quarter-line, which was shown here by the opposite party standing by the belt on the starboard side next to the one on which I was passing.

Q. Did you or the ship, in passing that vessel, strike the hawser?

A. Not to my knowledge. I did not myself. So far as she was concerned I cannot say.

Q. How near did you pass her?

A. I judge about 40 or 50 feet; it might have been more or a little less.

Q. What sort of headway had you?

A. The ship was going, I suppose, from 8 to 10 miles an hour. The ship had her three top sails on.

Q. Any top gallant sail?

A. No, sir.

Q. She was under her top-sails?

A. No, sir.

Q. About what rate was she going?

A. From 8 to 10 miles an hour.

287 Q. Was the hawser taut between you and her.

A. The hawser was not so very taut between us; the bight was either touching or near touching the water.

Q. Before you come together you had a sound from her of two whistles to go to the west, and you did so?

A. I did.

A. And passed on with the ship and then came up towards the second tug?

A. Yes, sir.

Q. The second dredge was the one with which the collision took place?

A. Yes, sir. After passing the first machine I still steered on my course. It was near about an equal distance from the other one, judge about half-way, a little more or maybe a little less. The ship took a sheer to the eastward. I blowed my whistles to her, and in order to draw the attention to let them know also there was something else ahead. And finally my owner was with me, M'r Ehrman, who remarked to me, says he, "Captain, see where that ship is going." I then blowed my whistle three or four times, and then went out on the aft deck of my boat and sung out to them to starboard there with the ship. I sung out also, "Where are you going with that ship." Then we
288 were getting close to the machine.

Q. How close were you to their machine?

A. Near about up to their first corner.

Q. Near abreast of their first corner?

A. Yes, sir.

Q. You then thought the ship was making to the eastward of the machine?

A. And I immediately blowed and rung my bells and the engine was stopped, and I rung my bells to reverse. I sung out, "You let go of the hawser," in order that I might pass to the eastward, provided he still kept his course in place of that. Whether he started his starboard wheel or not I do not know. The ship then came in contact with the machine and hit her a little on the starboard corner.

By the court:

Q. What could have caused that sheer?

A. I do not know.

Q. Could it have been from any other cause; if the ship had continued being taut by you it could not have taken place?

A. If she had followed after me, which I was a distance of 40 to 50 feet from the machine, it certainly would not have sheared. I had the hawser starboard and the bow of the ship next to the machine.
289 Of course in order that the ship might see my lights and would have brought him just the width of my boat still further from the machine.

Q. Where was your hawser out?

A. On the starboard bow.

Q. From yours?

A. From my starboard bitts.

Q. Is that amidships?

A. Not exactly amidships. I immediately, as soon as I could, asked them to give me a hawser from the stern of the ship, in order to pull the ship clear of the machine, which I did, and then dropped the ship eastward of the machine to the northward of the machine, and sung out to the parties to let go his anchor.

Q. How do you mean dropped her?

A. Let her go.

Q. And sung out to the pilot to let go his anchor?

A. Yes, sir. After doing so I then went to the machines and they were off in a boat to the eastward of the machines. I says to them, get aboard of the machine and give me a line in order that I may try and pull the machine out of the channel.

Q. They did make a little effort towards going towards the machine?

A. I finally saw the dredge careen over to the westward and the
machine went down. After I found the machines, then I went to
290 the ship to take the hawser from her again. I sung out to them
to heave their anchor, which they did. By that time the sail
were all furled and taken in. I then took the ship in tow and brought her into Baltimore, and heard no more from the ship whatever. I am a little ahead of my story again. I took the ship in tow and passed another machine, when I blew my whistle. There was no answer to the whistle of that machine. Never a watchman standing there to slack the lines down. Still the boat had come in collision and passed at equal distance as before. I then came on to Baltimore with the ship, just outside of the Lazarette.

Q. Any sheering done?

A. No, sir. Then I came on to Baltimore with the ship. Just outside of the Lazarette I blowed my whistle to haul the hawser in. The captain of the ship came on the forecastle to me, and I sung out, "Captain," says I, "haul the hawser in, that is what I want you to do." He says, "I have no pilot." "If you please, where is your pilot?" He says, "He is asleep." Says I, "For God's sake, go and wake him up; steering the river a night like this, when there are so many vessels about, and with a class of people like you, that don't understand." So finally he
came back and in a very little while remarked to me that he hadn't
291 any pilot. I told him to haul the hawser in, which they did do. I
went alongside the ship and lashed to him, and brought her in
the harbor and anchored her clear of everything. I then lay there some time. The captain of the ship remarked to me, says he, "Capt., this here is rather bad business," or something like that. The mate then entered into conversation, who speaks much better English. I says to him, says I, "There is no blame attached to the watch of the tug-boat." The capt. remarked to me, says he, "No, there cannot be."

Mr. BEEBE. I hope the court takes this as objected to.

WITNESS. At least he says to me—this was the captain of the ship—"What's going to be done about this?" I says, "I don't know." So, finally, while lying there, my boat blowed the steam off, which made considerable noise. I then got aboard of my boat and went to the wharf and laid fast. I came ashore and got on the wharf and finally went aboard the vessel again and turned in. The next morning the ship was put into wharf by somebody else.

Mr Wallis:

Let me understand; as you approached this dredge, that was run down, you sounded your whistle?

A. I did.

292 Q. How far from her were you?

A. I judge I must have been a mile and a half or maybe two miles; I can't say for certain.

Q. I am speaking after you had passed the first one and approached the one run down.

A. Soon after approaching the first machine I then sounded my whistle.

Q. I understood you to say that these three dredges being in line, the second dredge was about half-way between the other two.

A. Yes, sir, near about.

Q. After you had passed the first one and approached the second, you sounded your whistle again?

A. When I passed the first machine I then sounded my whistle to draw the attention of the parties on the ship, also on board the dredge, and then went on.

Q. Did you receive any answer from those on board the second dredge?

A. I did not; not from the whistle.

Q. When you got abreast of her, what did you say to him?

A. When I got abreast of the machine I saw one man on deck, which was the watchman.

Q. Where was he, on board the second of these dredges?

293 Standing right up by the line of the starboard bight—by the starboard bight. I remarked to him, says I, "Slack down your lines." Well, his reply was to me, "Captain, I will slack the lines down."

Q. You did not touch the lines, I understand you to say?

A. No, sir; I did not.

Q. Where were you when he said this to you?

A. Right abreast of the corner of the machine.

Q. How long was your tow-line?

A. I judge from 200 to 300 feet.

The court:

You have not answered the question I asked a short time ago. What, in your judgment, as an experienced seaman, could have caused that shear?

A. I cannot say, unless it was neglect, or something of that sort, unless a wrong order had been given, or something of that sort.

Q. It must have been some act on board the ship?

A. Yes, sir; because otherwise, on being tooted, she would have been carrying past a little distance to the west of us, the width of my boat, 19½ feet.

Q. There must have been some mismanagement?

A. Yes, sir, somewhere; where it was I cannot say.

Q. Who was the pilot aboard the ship?

294 A. M'r Adams.

M'r Steele:

What was the width of the ship?

A. I don't know; I judge it has been a steamer; I judge she is from 30 to 40 feet, maybe more or less. If the ship had struck, being in the rear of us——

Q. If the ship had struck the hawser, would it not have sheared directly in the direction she——

A. I cannot say, for this reason: If the hawser had parted, you understand, and caught between her stern-posts and her rudder, then it might have done it.

M'r Beebe:

You don't understand M'r Wallis' question. What sort of wind was blowing that night at the time of the collision?

A. There was a strong breeze from the southward and eastward; when I say that, I mean south by east and south of east.

Q. You spoke of the speed at which the vessel was going; was she going from her own headway or the headway communicated to her by the tug?

A. Both.

Q. With what wind; she had sails; hadn't she control of her own motion?

A. She had.

Q. Were her motions in any way dependent upon you?

295 A. Not at all.

Q. Did you go on board the ship that night?

A. She got into the first harbor.

Q. Did you say the pilot went on board?

A. I did not.

Q. Where was he?

A. I can't say; I didn't see him.

Cross-examined by M'r Beebe:

Q. W*h*ere you at the wheel?

A. I was.

Q. And had been at the time you took the ship in tow?

A. I had.

Q. How long had you had her in tow at the time of the collision?

A. I judge, perhaps, maybe from an hour and a half, maybe two hours; somewhere thereabouts.

Q. At the time you first saw her, either one of these dredges, the ship was under her top-sails?

A. She was.

Q. The gallant-sails were clewed up and furled?

A. Yes, sir.

Q. Her lower sails were hauled up?

A. Furled.

Q. And she was going under three top-sails?

296 A. Yes, sir.

Q. Which ones?

A. Fore, main, and mizzen top-sails.

Q. What was she, a bark or a ship?

A. A ship, or else she could not have had a mizzen top-sail.

Q. That is very likely, but I have seen barks carrying them too?

A. But it is baft top-sails; I have seen them carrying top-sails too.

Q. Now you say as you approached the machine you blowed your whistle. How many blows did you blow?

A. Excuse me, please, in entering the Craighill Channel——

Q. Then how far were you below the lower machine on entering the Craighill Channel?

A. I judge from a mile to a mile and a half.

Q. There is where you blew a whistle.

A. Then I blew my first whistle.

Q. What was that?

A. It was from two to three.

Q. Which was it?

A. I cannot say positively.

Q. What would two blows mean.

A. In approaching anything if I blow two whistles, two whistles
297 would mean go to the left. Can you understand me? If I was
meeting anything that was under way——

Q. That means go to the left, too, does it not?

A. Yes, sir.

Q. Then they mean the same thing, then, don't they, when going to an anchor?

A. No, sir.

Q. Supposing you are approaching a vessel at anchor, and you blow two whistles, don't you mean you are going to your left?

A. No, sir; when you find any laying to an anchor, and you give any signal to a vessel at all, it is to draw attention of those you have in tow behind you there is an object ahead coming.

Q. Do you tell me the blowing of any number of distinct blows it is done to call attention?

A. No distinct number.

Q. Then if you blow two blows, has not that a distinct meaning?

A. That is so.

Q. Now if you blow three blows, has it any meaning?

A. It is meaning to draw attention.

Q. Three blows mean attention?

A. Yes, sir; or three or four, or five or six.

Q. Two blows mean the course?

A. Not particularly.

298 Q. Don't two blows mean course?

A. If you are meeting under way a steamer or sailing vessel, it does not apply.

Q. But two whistles have some signification. Don't it mean the direction you will go?

A. No, sir.

Q. Suppose you blow one blow, does that mean direction?

A. No, sir. I might blow my whistle to anything at all in order to draw attention.

Q. I am not talking about tooting; I am talking about single blows. What is tooting?

A. It is just a short jerk.

Q. Now, I am talking about single blows of the whistle. Does not that, or does it, mean anything?

A. A single blow of the whistle, when you are passing a steamer under way, means go to the right.

Q. Has a single blow any other meaning than to go to the right?

A. No, sir.

Q. Has two blows any other meaning than go to the left?

A. No, sir.

Q. Three blows call attention?

A. Yes, sir.

299 Q. Then you went along up and you passed the first dredge; you were at your wheel. Have you a smoke-stack?

A. I have.

Q. Where is your smoke-stack, forward or abaft your——

A. Abaft the wheel-house.

Q. Near amidships?

A. Yes, sir.

Q. How far abaft your wheel-house?

A. I should judge, perhaps, with my boat at present, may be from 6, 8, or 10 feet; somewhere in that neighborhood.

Q. Who was on your deck at the time you passed the first dredge?

A. My engineer.

Q. Anybody else?

A. I am unable to say exactly.

Q. M'r Ehrman, he was in the wheel-house with you?

A. The engineer had charge of the engine.

Q. Now, we will go along up. As a matter of course you did not measure the distance between the first and second dredges?

A. It would be impossible.

Q. Only by your eye?

A. That is all.

300 Q. M'r McCullough says they were about a quarter of a mile apart, and so does M'r Lord. Now, what was the first thing; now when you first saw that the ship had a shear on her as you stated, how came you to see it?

A. My attention was drawn to it.

Q. By whom?

A. By M'r Ehrman, himself.

Q. At that time had your tug reached abreast of the quarter or bow of the second dredge?

A. Not quite.

Q. But nearly up to it?

A. Yes, sir.

Q. Then you saw this shear?

A. Yes, sir.

Q. Then did you let the hawser go?

A. I blowed the whistle.

Q. Never mind about that.

Q. I will ask you this question: at the time you saw this shear, had you sung out to the men on the dredge to lower away his cable—let go your line?

A. I disremember I had or not.

Q. I want you to recollect. Hadn't you at that time sung out to the men on board the dredge to slack up your line?

A. I am not exactly positive about it. I might have done so.

301 Q. At any rate at that time you had gotten pretty close to her?

A. Yes, sir.

Q. Before you saw the shear?

A. Yes, sir.

Q. Then you looked back and saw that the ship had a shear on her?

A. M'r Ehrman then called my attention, and said, "Look, look, captain. Where is that vessel going to?" Then I looked, and saw that she was shearing toward us.

Q. From that time on did you see any port on her?

A. I did not.

Q. Then, apparently, after she got that shear she kept straight on until she struck?

A. She seemed inclined to the eastward.

Q. Continually to the eastward?

A. Yes, sir.

Q. From the time that you passed the first dredge, up to the time that the ship came in contact with the second dredge, did you change your wheel at all?

A. I kept my course.

Q. Did you change or shift your wheel?

A. I did not.

Q. Did you at any time, up to the collision, starboard?

302 **Witness.** Before the ship struck starboard my wheel?

Counsel. Yes; before the ship struck.

A. No, sir; there was no necessity for it.

Q. When you saw the ship's bow going off towards the east, didn't you put your wheel off to the starboard?

A. I did not.

Q. What prevented you changing your wheel?

A. The ship was going in such a direction that it would have brought me alongside of the ship, head and stern.

Q. Until she took that sheer she was behind, was she not?

A. She was.

Q. She was steering on your course?

A. No, sir.

Q. A little to your port?

A. No, sir; to my starboard.

Q. Was she to your starboard?

A. The ship was going to the eastward, when she took the sheer——

Q. I mean before she took the sheer, was she following in your wake? Was she on your starboard or port end?

A. She was so that she could see my lights a little on my port sides.

303 Q. That is exactly what I say. When you saw her take that sheer, did not you put your wheel starboard so as to pull her away?

A. There was no necessity for it. I did not put her to starboard.

Q. You are not a judge of that.

A. I am a judge of that; because I was there steering that boat.

Q. Now I ask you, did you do it?

A. No, sir; I did not.

Q. Then from the time you left the first dredge up to the time of the collision, you never shifted your wheel?

A. No, sir; there was no necessity for it.

Q. I did not ask you whether there was any necessity for it; I ask you to the fact. In order to steer her course didn't you have to starboard and avoid the upper edge?

A. No, sir.

Q. Or the second dredge?

A. No, sir; because they were lying in a line, and I was far enough from the dredges to steer my course up the channel.

Q. Under whose instructions was the answer in this case drawn? Did you tell the story answer to the libel in this case? Who drew that portion of the answer that states that you had passed two dredges, and came in contact with the third?

A. No one—not passed two dredges.

By M'r Wallis:

Q. If so, it was an error on the part of the person who drew it up. There was no such idea on the part of any one.

304 M'r BEEBE. I find on examination of the answer that it states that he had passed the second, but not the ship.

M'r WALLIS. I thought that you would find nothing of the kind that you suggested in it.

Q. Your tug passed over that line?

A. Yes, sir.

Q. How much water did you draw?

A. In the neighborhood of 11 feet.

Q. Not 8 or 9?

A. Somewhere about 11 feet.

Q. The ship drew 3 or 4 feet more than you did?

A. As far as I can understand, the ship draws 14 feet of water.

Q. Did I understand you to say that at any time that the hawser was cast off?

A. No, sir.

Q. Was the hawser parted?

A. The hawser was in two pieces when I hauled it on the stern of my boat.

Q. A part of the hawser was left to your boat, and a part of it went on board of the ship?

A. Yes, sir.

Q. Did you see, before the ship struck the dredge, that the hawser had parted, or was separated from your tug?

A. No, sir.

305 Q. When did you first observe that it was separated?

A. When I first observed that the hawser was parted from my tug was when I sung *I sung* out to them after the ship had hit the machine. I sung out to them to haul the hawser in. I found that I could get no reply, and then I ordered my own crew to haul the hawser in on deck, in order to prevent its going into my wheel, so that I might go around the starboard of the ship, and they hauled it in and found that it was——

Q. I ask you when it was you first discovered that the ship and yourself had separated. Where was the tug then?

A. It was at its heading to the westward.

Q. And had the collision taken place?

A. Yes, sir.

Q. Was the first time that you knew the hawser was separated when you attempted to haul it in?

A. Yes, sir.

Q. What was the necessity of your hauling in, or trying to haul in, if fast to the ship?

A. To get the hawser from her stern and pull clear of the machine.

Q. If the hawser was fast to the ship, how could you haul it in?

A. Because the hawser was parted.

306 Q. Then you knew when you commenced to haul it in that it was parted?

A. Mey purpose for hauling in was in order to prevent it catching in my wheel, in order that I might get it round on the stern of the ship.

Q. Then there were two objects?

A. No; one object.

Q. Did the ship and the dredge remain in contact until you hauled her out?

A. They did.

Q. And you hauled her out?

A. Yes, sir.

Q. About how was the ship and the dredge lying in regard to the channel when you hauled her out?

A. The dredge was lying north and south.

Q. Which way was her bow?

A. To the southward.

Q. Which way was the ship's stem?

A. It was to the northward.

Q. And the stern?

A. The wind caught her on the starboard quarter and blew her stern somewhat around to the westward.

Q. But her substantial direction was up and down the channel?

A. Yes, sir.

307 Q. When you pulled her out?

A. No; she was inclined to the westward when I pulled her out.

Q. I want to know, at the time you took hold of her to pull her away from that machine, I want to know how she was lying?

A. She was lying as near north and south as I could judge.

Q. But the ship swung a little to the westward?

A. Yes, sir.

Q. And you took hold of her starboard quarter and pulled her away down the channel?

A. Pulled her down the channel.

Q. Then, when anybody says she had to swing around until her stem got to the southward—that is a mistake?

A. Yes, sir.

M'r Steele:

Did you see the dredge as she lay after she sunk?

A. I did.

Q. Which way was her head?

A. If I mistake not, her head was laying to the southward.

Q. After she was sunk?

A. Yes; that was my opinion.

308 Q. Suppose you are mistaken in that, and that when she sunk her head was lying to the north?

A. Then it was worth nothing.

Q. Then you are mistaken as to how far she had swung around?

A. Yes, sir.

Q. Did you pass there frequently; and didn't you see just how she was lying after she had sunk?

A. The machine—her deck was under the water. I cannot say distinctly, but I was inclined to think she was lying to the southward.

Q. Could not you see which way the boom was?

A. The boom showed above the water.

Q. I inclined with her head north after she sunk?

A. I cannot say with regard to that matter positively, but there is a way to find that out by parties that got the machine out and brought her to Baltimore.

M'r Steele. We have got that already.

Counsel. I only wanted to give you an opportunity to explain it.

Witness. I cannot say positively whether she was or not. But at the time the machine sunk she sunk with her head to the southward.

Q. She would stay so if she sunk that way?

A. I suppose so, because I was alongside of her at the time she went down.

309 Q. Probably remained in whatever position she sunk. In that respect she could not well after *change* she sunk, change her course. You say you took the ship in tow off Annapolis?

A. Yes, sir.

Q. About 8 o'clock?

A. Yes, sir; somewhere abouts.

Q. How long would it take you to go down there from Baltimore?

A. I can run that, if I was in a hurry—of course in going from Baltimore down there I did not pay any particular attention to the time—but I can run it so as to make precise time of it.

Q. About what time did you take?

A. That I cannot say, because I did not take any particular time what time I left Baltimore, or about exactly when I got to Annapolis.

Q. I did not ask the exact time. How long did it take you to get there? What speed does your tug average with nothing in tow?

A. She will make 12 miles.

Q. Annapolis is how far?

A. 29 or 30 miles.

Q. That would take you two hours and a half?

A. That is, to drive full speed.

Q. That would bring your time of departure from Baltimore to half-past five?

310 A. Of course it would.

Q. When you went down, where were these dredges lying?

A. They were in tow going down. I am not exactly positive whether the dredges had anchored then or not; whether the' were in tow going down, or whether they had already connected. Anyhow, I knew they were out. I saw the dredges going down—took down.

Q. You left here about half past five. Were these dredges in motion when you passed them?

A. They were.

Q. When you went down at half past five o'clock, did you, or did you not, see those dredges there?

A. I told you the dredges were either anchored, or else towing down when I went down.

Q. Which were they?

A. I did not go down the channel where the dredges were lying.

Q. You could see them?

A. Yes, sir.

Q. How did they go down there; by themselves?

A. Towed down.

Q. You could see if a tug was hooked to one of them, towing?

A. Very true. But I tell you I am not positive whether towing
311 or already down. I know this about it, they were somewhat in the
neighborhood, or towing down, or whether anchored or not, or still
in tow, I am unable to say.

Q. Do you know whether or not there was a tug fastened?

A. That I cannot tell you, because, if I had recollected whether the tug was fast to them, I would tell you what tug was towing them?

Q. You do not recollect whether there was a tug fastened to them or not?

A. No, sir.

Q. You came into Craighill channel at what is called the calm buoy?

A. The calm buoy is down below the entrance. They call it the entrance to Craighill channel. I went above it—at the stake buoys.

Q. When you came into the channel, could you see the lights of the dredges?

A. They were burning; I could see them distinctly.

Q. How many blasts of the whistle did you give as you were approaching the first dredge?

A. That I am unable to say. I tooted my whistle, as you will understand, either a little longer or a little shorter. Perhaps there was a whistle given me from the first machine, which I did not answer because
the machine was lying to an anchor when I came up the channel
312 with the ship.

Q. The machine was lying at anchor?

A. Yes, sir. Of course, by her lying to an anchor, there was no necessity of giving two whistles to let her know I was——

Q. I ask for the fact. How many whistles did you give when you approached her?

A. I gave him more or less whistles; to say positively, I cannot.

Q. How do you recollect so well how many he gave when you cannot recollect what you gave?

A. Because it has always been customary in approaching those dredges to find them a little more on one side than the other. Generally gave two whistles as to which was the most convenient side for them to go on.

Q. If you ordered the numbers of whistles to be given, wouldn't you recollect the number of whistles you had ordered, as well as those you had heard? How many whistles did you order?

A. Those I gave myself. I did not order anybody.

Q. How many did you blow?

A. More or less.

Q. Then you cannot recollect what you gave, except more or less? Then how can you recollect so accurately what the dredge gave?

313 A. I recollect that because, lying to an anchor, she blowed two whistles for me to go to the left.

Q. Do you understand it to be a law of the bay, that a vessel at anchor blows her whistle; or a machine or vessel at anchor is to blow the whistle to passing vessels, to tell them on which side they are to go?

A. Sailing vessels have no whistles; steamers, when lying at anchor, give no whistles.

Q. This dredge was lying at an anchor?

WITNESS. Is not a dredging-machine a steamship or a steamboat?

Q. I want the facts. I am not arguing with you. You came up the Craighill channel for a mile and a half. You saw buoys upon both sides as you came along.

A. No, sir. I do not remember of seeing the buoys, because there is no necessity of looking for buoys in the night-time, because the lights are put out.

Q. Was it a bright night?

A. Yes, sir; the moon was shining.

Q. Would there be any difficulty in seeing buoys if you had looked for them?

A. No, sir; not when I got abreast of them.

Q. Did you know the eastern edge of that channel was buoyed?

A. Yes, sir.

314 Q. When you approached the first dredge could you see the space between that dredge and the buoy?

A. I suppose I might, if I had gone on that side. I might have seen it.

Q. But you have seen it as you came up to the dredge?

A. If I had gone to the westward I could have seen it.

Q. If you had gone to the eastward, you would have gone through it, but without going through it as you approached the dredge, could not you see whether there was; was not the space between her and the buoys to the east?

A. I could have passed on either side of the machine, and if I had gone to the eastward of the machine, then I would have seen the buoys, but the buoys were not there to be seen; not there to be run by all night. We used the lights in the night-time.

Q. Could not you see the buoys, if you could have seen them?

A. No, sir; because it requires some half dozen to be kept in range of each other, and we have not had it at night.

Q. Do you knew the depth of the water on either side where that dredge lay?

A. I know by the chart.

315 Q. What was the depth of the water east of the dredge between her and the buoys?

A. I cannot say positively because I do not know exactly the exact spot where the dredge was laying—that is the exact distance.

Q. You saw the spot that night as you passed it?

A. Of course, but I cannot tell exactly the distance from the lower end of the Craighill channel up to the dredge, without the measuring of it.

Q. Do you know the depth of the water in Craighill Channel?

A. There is said to be 24 feet. In fact I have found more than that.

Q. How much water was there on the west side of the dredge where you went? Do you know what the water was there?

A. Not exactly.

Q. Plenty of water for your tow?

A. No, sir; I cannot say that, because the channel is made through those lumps over the shoals for the purpose of running, and then if I took my ship or vessel, as the case may be, outside of that channel, I am faulty then for running outside of the channel.

Q. Do you think that night you were running in the channel that had been excavated?

A. I know that I was.

316 Q. You were, then, when you run to the west side of that dredge, according to your idea, running in the excavated channel?

A. Excuse me; according to the lights laid down by Government.

Q. That is your reason for it, but that was your opinion that you were running in the channel which had been excavated?

A. There are the marks laid down to run by.

Q. Your impression is, then, that you were running in the channel that had been excavated 24 feet, when you run to the west of that dredge?

A. Knowingly; not an impression at all.

Q. You know it had been excavated?

A. I know that I was in the channel, by the lights placed by the Government of the United States to run by.

Q. Did the lights tell how much of that channel had not been excavated?

A. The lights did not, any further than this, after the lights are placed as you understand, one over the other; that is when you raise one over the other you are in the centre of that channel. Of course, then, a person can very easily imagine how far he is from the middle of that channel to the western edge of it by the buoy standing on the eastern side leading to the middle of the channel.

317 Q. You did not see the buoy, as I understand it, at all?

A. Of course not.

Q. Was there a dredge lying in the centre of the channel?

A. As near the centre of the channel as they could get.

Q. Lying in the centre of the channel, they would have as much room to pass on the east side as on the west side?

A. That is so.

Q. Do you know the depth of the water bordering that channel at that point where it has not been excavated?

A. I just remarked to you that I did not; that there is a chart which will tell all the shallow places that are on each side.

Q. The chart shows there 19 or 20 feet of water.

A. The chart shows also eleven feet there.

COUNSEL. No, it does not, so far as I have seen. Here is the coast survey that has been offered in evidence.

A. I think you will find it eleven feet.

Q. Not on that chart.

A. I am not speaking of that point. I could not say positively how far the machine was up that channel.

318 If you know there was a shoal you know where it was. If you were acting as a pilot, and know there was a shoal, you know the point where it is located?

WITNESS. Very true. Now for the purpose of instructing the gentlemen there——

Q. Just answer my question; that is the simplest way, and then if you desire to make any explanations afterwards, you can do it.

A. I was going to try to make a better explanation.

Q. I do not want any explanation made at all.

A. By taking a vessel down on the eastern edge of the channel——

Q. The simple question put to you is whether or not you know the natural depth of the water at the point where this collision took place?

A. I certainly did tell you no; I said so before.

Q. No, you did not; you said there were shoals, and I wanted to know how near the shoals were. You said some eleven feet. I want where that eleven feet is, and how near that point?

A. That I cannot say; you will find it on the chart.

The court:

You say that when some man upon your vessel, whom you named, whose name I have forgotten, hallo'ed out to you, "Halt; look 319 and see where the ship is going," that when you looked you found her sheering, as I understand you, and that you then called out to her, "Why don't you stop at the helm." Did you get any response?

A. No, sir.

Mr. BEEBE. He was from the helm 550 feet, your honor.

WITNESS. O, no.

M'r BEEBE. Are you certain of that?

WITNESS. I am stating we do not generally sing out to the man at the wheel; we sing out to the man on deck.

Q. Did you see a man there?

A. No, sir; I did not see him.

By Mr. Steele:

When you were approaching the second dredge, I understand you to say, as you passed her, about forty feet; it might have been more or less?

A. Yes, sir.

Q. When you got nearly up to the corner of the bridge, your tug, in passing, going in her course, her helm not altered, going in a steady course, when she got nearly abreast—you said not quite abreast—nearly abreast of the corner of the bridge, that the sheer was going by the ship. Am I right about that?

A. That is when I first took notice of her; she might have sheered a little perhaps before that.

Q. How much hawser had you in towing?

320 A. I judge somewhere in the neighborhood from 220 to 200 feet—from (40) forty to (50) fifty fathoms.

Q. You passed without touching the hawser of the dredge?

A. I did.

Q. And you called to the watchman on the bridge to slack?

A. Of course.

Q. I understand you to say that he at once slacked?

A. His remark to me was, "Captain, I will slack the lines down."

Q. At that time, when you ordered him to slack, was that when you were approaching the dredge and were nearly at her corner?

A. My bow was near about abreast of the first corner of the dredge at the time I came over in that direction; that was the second machine.

Q. Do you know how far you could have gone, whether on the east or west side of that dredge, with water enough for your tug on that occasion?

A. I do not, for I do not think I could have gone over fifty feet with safety, and my reason for saying that is, the lights at the upper end of Craighill Channel were put there to run by of a night. Of course you have to keep them somewhere in the neighborhood or near about.

321 I do not judge I could have gone much over fifty feet, with my boat than 19½ feet, and with the port side of the buoy by having the hawser from the starboard board.

Q. You do not know the fact that there is, westward of that point, 19 or 20 feet of water for some distance. You know this fact, that the Craighill was 24 feet, and intended for vessels of the heaviest draft?

A. Twenty-three.

Q. Twenty-four is what they profess to make it?

A. Not 24 feet draft. You must allow for one foot of water underneath in order to allow to get over the bottom. Some of it is pretty hard bottom.

Q. But your vessel drew fourteen feet?

A. Yes, sir.

Q. Had you these lights exactly in line at the point where you went?

A. A little open to the westward.

Q. If you had gone to the eastward of the tug, then, they would have been open the other way?

A. Yes, sir.

Q. And as much open on the one side as on the other, or the both?

A. Yes, sir.

By Mr. Beebe:

322 When you came into the Craighill Channel did you get the lights in range?

A. Yes, sir.

Q. And the proper course to come up?

A. Yes, sir.

Q. And you kept along up until——

A. Until I starboarded my wheel in order to pass this dredge.

Q. Will you point out here in the court those two men that you saw on the ship, that you had that conversation with after you got up?

A. Yes, sir; the captain and mate of the ship. This is the mate of the ship standing here.

Mr. BEEBE, (pointing to a certain individual.) Is this the mate here?

A. No, sir. I am not positive about it. I saw him down at the foot of Broadway and came up to the court with him. The mate and captain are here. I will tell you one thing. It is a difficult matter for me to point out. You understand the captains of these ships.

Q. If you cannot I do not care about it. How long a conversation did you have with the captain?

A. That I could not tell you. It might have been from three to five minutes.

Q. Repeat the conversation you had with him. Was it in Italian or in English?

323 Q. Go on and state what took place.

WITNESS. After going on board the ship?

Q. Yes.

A. In going on board the ship after anchoring the ship, I walked to the gangway and went to go aboard my boat. There I met the captain. He walked up and shook hands with me, and remarked—the mate at that time was not close by—the captain said, "This is a very bad job." Says I, "It is, indeed." "Well," he says, "Indeed, what is to be done about this—this is very bad." That was in his way of speaking. Says I, "Captain, no fault attached to the tug-boat about it at all." He remarked to me there was not.

Q. Just give his language?

A. I says to him, "There can be no fault lodged to the tug-boat about it." He remarked to me, "There cannot." Then afterwards the mate came up, and I asked him who was on the lookout on board the ship, and his reply was that no one; that all hands were clewing the mizzen topsail.

Q. Now the balance?

A. That is the last of it.

Q. That was all in English?

A. Yes, sir; with the exception of one word. He asked me
324 to take a drink. That was in English.

Q. That you did not take, of course?

A. That certainly I did refuse to do. Nevertheless he gave me a bottle of vinegar; that I did as I pleased with.

Q. Pretty good English, was it not, too?

A. The mate didn't speak bad English.

JUNE 13, 1874.

Captain Isaac J. Anderson, recalled.

By Judge Beebe:

Q. There is only one question I wish to ask, and my mind is not clear upon the point whether you have already answered it or not, but if you have, I want you to answer it again this morning. I understood you yesterday to say that when you looked back and saw that this ship had a shear on her that you at once rung to "slow" and "stop." Is that so?

A. I did, sir.

Q. Now, I want to know whether you saw the ship come in contact with the dredge?

A. I did.

Q. Where were you standing at that time?

A. I was then standing on the aft part of my boat.

Q. On the open deck?

A. On the open deck.

325 Q. At that time was the hawser which connected the two vessels taut or in the water?

A. Mine was in the water.

Q. I mean the one that connected your tug with the ship?

A. Yes, sir.

Q. That was lying in the water and slack?

A. Yes, sir.

M'r Wallis:

Q. There was a great deal of cross-examination yesterday in regard to the whistle that you gave when you come up to the first of these dredges. I wish you would be good enough to tell me how far I understood you to say you were below the first of the dredges when you began to whistle?

A. I judge, sir, that I was perhaps from a half a mile to a mile; may be more, may be less. I am not positive exactly.

Q. When you began to whistle?

A. Yes, sir.

Q. Why did you whistle?

A. I whistled in order to draw the attention of the parties on board of the ship to the fact that there was a machine, or, in other words, obstructions ahead in the channel, in order that they might take notice of it and clear the machine, and also to draw the attention of those
326 on board of the machine that I was coming.

Q. Have you been in the habit of sailing up and down since the channel has been commenced.

A. I have.

Q. Will you be good enough to tell the court if there is any caution on the part of tugs going up and down there with tows in relation to whistling—any custom of whistling in passing those dredges?

A. That has always been the custom.

Q. To do what?

A. To warn the machine that you are coming.

Q. What for?

A. For the purpose of slacking down their lines. Their lines, of course, are stretched across the channel on each side.

Q. Did I understand you to say, yesterday, they had scows sometimes on one side, and sometimes on the other?

A. Yes, sir.

Q. Did I not understand you to say that one purpose of your whistling was so that they might indicate to you which side they wanted you to go so as to avoid what might be there?

A. Yes, sir.

Q. Please state whether you have any doubts at all of the fact that, after you whistled to the first of these dredges, she gave you a
327 couple of whistles?

A. I have none. The first machine blowed me two whistles, which I took, of course, as proof for me to go to the westward of her.

Q. There has been some question as to the position of these dredges—what part of the channel they were lying in. State to the court, when you come into the channel, did you, or not, take the range of the lights?

A. I did.

Q. How did those dredges lie as to the range of those lights?

A. As to the range of the lights, the dredges lay exactly with the lights, in the range with each other. By going to the eastward the lights would open on the east, and also the westward if you went to the west.

Q. You did see the lights of the dredges then?

A. Yes, sir.

Q. And going by the range of the Government lights put there, the lights on the dredges were in the range or lines of the Government lights?

A. They were.

Q. State whether or not, after the collision took , you passed up or down the channel with tows before this dredge was taken up?

328 A. I did pass up and down the channel with two vessels in tow, but passed to the westward of the sunken machine, and also of the other machines. On one occasion, in passing to the westward of the second machine, the captain or mate, or somebody aboard, I could not say who it was, said to me to cross over; that there was better water to the eastward, & my vessel drew considerable water & I did so.

Q. How long after the collision was it that you went down with a tow?

A. I think on the next day.

Q. On the next day you went down with a tow?

A. Yes, sir.

Q. What sort of a vessel was it—how much draft?

A. I could not say, exactly; somewhere in the neighborhood of 16 or 17 feet.

Q. Which side did you go on?

A. On the westward.

Q. Then, captain, tell the court, if you please, speaking from all these facts, whereabouts in the channel, to the best of your judgment, this dredge lay—the one that was run down?

A. It was lying as near the centre of the channel as she could lie, with room to pass on both sides of her, which I did do.

M'r Giles:

Q. Do you mean after she was sunk, or before?

A. After.

329 M'r Wallis:

Q. Something has been said about the depth of water to the west. You stated yesterday that not knowing the exact distance by measurement to the point where this collision took place from the entrance of the channel, you could not speak, as to the chart, from the chart, as to what particular depth or shallow of water was directly abreast of the place where the collision took place. State whether or not it is safe going with vessels of any draft to go outside of that channel & go to the westward?

A. It certainly is not.

Q. Why?

A. Because there are lumps all the way up & down the channel on both sides, and by running out of the channel we don't know exactly where the lumps are, and then our vessel runs on them and stops, and then the tug is blamed for running vessels ashore.

Q. The bottom is lumpy on both sides?

A. Yes, sir.

Q. So that, although there may be depth of water generally, these lumps are there, and you run the risk of getting on the lumps, although you may be part of the time in deep water?

A. That is so.

330 Q. Can you give any instance within your recent recollection of vessels (and if so what draft of water) running aground on the western side?

A. I have seen vessels lying there ashore on both sides. One was drawing 12 feet of water, the A. C. Lyon, and also a three-masted schooner to the eastward, drawing about 14 feet—to the eastward of the channel. I have seen a schooner also ashore drawing 12½ feet.

Q. On which side?

A. On the westward side.

Q. How far from the place of collision?

A. I could not say exactly; perhaps a hundred yards, or it might have been two hundred; I could not say.

Q. I mean north & south.

A. That is what I mean, north and south.

Q. How far out of the proper channel—the excavated channel?

A. I would not judge it was more than the width of them. I have seen them not more than the width of them out of the channel ashore.

Q. What was the name of the vessel you mentioned?

A. The A. C. Lyon.

Q. The one that you saw upon the west?

Q. That was the one upon the westward.

Q. How long ago was that?

331 A. I judge it was somewhere about three weeks ago. It may have been more or less.

Q. Whether it was directly abreast of this place or not, you cannot speak?

A. No, sir.

Q. It was somewhere in the neighborhood of it?

A. Yes, sir.

Q. Not more than the vessel's width, you think, outside of the channel?

A. I have seen them not more than the width of the vessel on the outside, & have worked on them & pulled them off.

Q. You have been engaged with a tug in pulling them off?

A. I have.

Q. Tell the court whether or not, then, in view of the fact that although there is a very considerable depth of water on that side of the channel, whether or not it is safe with vessels carrying the draft of the vessel you had—the Italian vessel—to go outside of the channel.

A. It is not safe at no time to run outside of the channel, and we never attempt it, on account of the channel being put there to run in. It is made there for us to go through, & we go through it, & we don't
consider it safe to go outside of it with fourteen feet, as every pilot
332 will say. This channel was never run through until it was made
a channel. No one ever attempted to sail or tow a vessel of 14 feet through there until it was made a channel. They always went out to the old ship-channel.

Q. How far around was the old ship-channel?

A. I judge, in going through and down the new ship-channel there is a difference of about six miles; you save about six miles in going through the new channel.

Q. I understand, then, the fact to be this, that you went around in the old ship-channel until this new one was made?

A. Yes, sir.

Q. Until this new channel was made no vessel ever undertook to run over that lumpy ground?

A. No, sir; not when drawing 13 feet of water.

Q. And since the channel has been made you don't consider it safe, for the same reason that prevented you going through there before (this lumpiness of the ground & its inequality) to go outside of the channel?

A. That is so.

The court:

Q. I understood you to say that on this occasion you had water to the left?

A. On either side of the dredge there was water enough to pass.

333 Q. Let me understand you fully; you have stated previously that when you got with your tug abreast of the second dredge you saw a man standing by his line, & you said, "Slack your line."

A. No, sir; he says to me, he says, "I will slack the line for you." He *He* was standing just by the corner of tne machine.

Judge **Beebe**. We have the testimony of that very witness.

Witness. He was standing on the forward end of the machine, just by the bitt, & he says, "I will slack the line for you." I says to him, "Slack down your lines," & he says, "I will slack them lines, captain," which he did speak very kind.

Mr. Wallis:

Q. I will ask you another question about the location of this dredge. State whether or not, in going up or down the channel before these dredges were located there, there was any preparation made—whether there were any stakes driven into the channel. .

A. There was preparation made. One or more days the small-boats were down there astaking out the channel and putting down what they call "switches," I believe; small stakes in order to place the dredges by

The court:

To show where the work was to be done?

A. To show where the work was to be done; yes, sir.

M'r Wallis:

334 Q. Where were these stakes placed?

A. Just as straight in the middle of the channel as they could be, with the range of the lights on them—within the range of the lights.

Judge Beebe:

Q. How long have you been towing vessels up and down that channel?

A. I have been towing vessels up and down that channel ever since—well, in fact, I towed the first vessel through that was ever towed through it; but how long—the exact time—I can't say.

Q. Some years ago?

A. Yes, sir; some years ago.

Q. You have been in the towing business?

A. Yes, sir; I have been in the towing business.

Q. Were you familiar with the coast survey?

A. Yes, sir.

Q. You have studied that, have you?

A. How is that?

Q. You have studied that coast survey?

A. That is the chart of the channel?

Q. Yes.

A. No, sir; I didn't study the chart of the channel.

Q. You have seen it?

A. Yes, sir.

Q. You took your depths of water from that chart, didn't you?

335 A. Not in the channel.

Q. Well, out of the channel?

A. Out of the channel, of course.

Q. Out of the channel you did do that?

A. Yes, sir.

Q. That is your guide as to the depth of the water?

A Yes, sir; certainly.

M'r Steele:

Q. You say that the range of lights was exactly in the centre of the channel. How wide do you mean to say the channel is?

A. How wide? I cannot say.

Q. You say it is the centre of the channel; now how can you tell what is the centre unless you know its width, or estimate its width?

A. My reason is this: the lights are put there for the centre of the channel.

Q. That is your reason, then?

A. Yes, sir; they are put there to run by.

Q. The lights are put there to run by?

A. Yes, sir.

Q. You say you have been passing up & down there all the time. Did you know that the channel had only been made to the extent of the point where that dredge was lying, and had not been made on the western side at all?

A. I did not.

336 Q. You ran up & down all the time, & you knew that the dredges were there at work?

A. I have always passed up & down there ever since the dredges have been at work.

Q. I say, you knew the dredges were there at work when you saw them stationed there?

A. I knew they went there for to go to work.

Q. If they were working in a given place, then the place where they were at work of course had not been completed—the channel had not been completed at the place where they were working?

A. Of course not.

Q. Do you know whether or not what had been made of the channel was on the west or east side of the dredge?

A. How is that?

Q. Do you know whether that portion of the channel which had then been excavated & made was upon the east or west side of the dredge?

A. I don't know further than this: The lights were put there to run by in the night, and of course we cannot run the channel unless we bring the lights in range of each other.

Q. I am not speaking of lights now. I am speaking of your knowledge of the channel. You say you had been going up & down, and were the first person who ever took a vessel through that channel after 337 it was opened. The buoys are visible to the eye in the day-time, and were visible at night if you had looked at them. Did you know that the buoys were on the east side of the channel—of that part which had been excavated?

A. I did.

Q. Then wouldn't you know that the portion between the buoys and the dredges was the portion that had been excavated?

A. Of course.

Q. And that if the dredges were at work, & they had been working from the buoys towards the westward, that that part upon the west had not been excavated or yet made ?

A. I didn't know whether it had been finished or not.

Q. If the dredge was there at work, it could not have been finished where she was ?

A. Well, so far as that is concerned, that didn't prevent me from going through.

Q. I am not arguing with you ; I didn't ask what prevented you. But I ask if you did not know that the dredge was at work, and that therefore that part of the channel had not been completed ? You say you knew the buoys marked the eastern edge of the channel which had been excavated, and that the channel was made from the east 338 towards the west ; they had begun on the eastern side. What I asked you was, not where the buoys were, but where the dredges were ; and being familiar with the channel, didn't you know that the part of the channel which had been excavated was upon the east, and that on the west had not been made, had not been excavated ?

A. I didn't know that it had not been, for this reason, that the dredges were lying in the centre of the channel.

Q. How do you know it was the centre ?

A. Understand me ; they were lying in the range of the lights, I mean.

Q. You knew the fact that the channel had been made up to that central point on the east, and had not been made on the west side at all ; did you know that or not ?

A. I didn't know, sir, whether it was completed on the east or on the west.

Q. You knew it was completed on the east ; you saw the buoys there to mark it ?

A. The buoys were there, but that didn't complete it, because the buoys were put there ; it marked the eastern side of the channel.

Q. But you said the eastern side was completed.

M'r WALLIS. That is not what he said.

339 M'r Steele :

Q. You didn't know whether the eastern side of the channel to the extent of 200 feet had been excavated or not ?

A. All I know was this, that there was water enough to bring a ship up of 22½ feet, with the range of the lights on.

Q. Do you mean to say that if you had gone by on that point where the dredge was, that you would have had 22½ feet all the way up ; if you had kept this range of lights on, and gone by on the precise spot where that dredge was at work that night, would you have had 22½ feet on that spot ?

A. I have done it.

Q. On the spot where the dredge was ?

A. In the centre of where the machines were lying with the lights on.

M'r Wallis :

Q. You have done it ?

A. I have done it.

M'r Steele :

Q. You mean there was 22½ feet of water before the dredge worked there, then ?

A. I have taken a ship up there drawing 22½ feet, right straight up the centre of that channel.

Q. What channel?

A. The centre of the channel with the range-lights on.

340 Q. Let us understand that. Do you mean over that spot where that dredge was at work there was 22½ feet of water before that time?

A. There must have been, or else the ship would not have gone.

Q. You went over that spot, although you had the excavated channel 200 feet wide from the boat?

M'r **WALLIS.** He said he didn't know about the excavations.

M'r Steele:

Q. Did you go over the exact spot where the dredge was lying?

A. I cannot say whether I went over the exact spot. I went up the centre of that channel with a ship drawing 22½ feet, with the range-lights on.

Q. I am not talking about the range-lights. How far from the buoys were you when you had 22½ feet?

A. I judge perhaps 50 or 75 feet.

Q. From the buoys; and you say you brought up a ship of 22½ feet?

A. Well, it, perhaps, may have been a hundred feet. I cannot say the exact distance from the buoys to the centre of the channel.

Q. You say possibly 50, 75, or 100 feet from the buoys, and there you had 22½ feet of water?

A. Yes, sir.

341 Q. You were asked something about the hawser; as I understand it, it was a hawser between your tug and the ship. You were asked, when you first came on the stand, (I didn't understand the question exactly,) whether the hawser could be seen to let go?

The **COURT.** Or whether it was taut or lying in the water?

M'r Steele:

Whether it was taut or lying in the water. What is your answer to that?

A. My hawser was slack, the bight of it lying in the water.

Q. When was that; at the time of collision?

The **COURT.** He says it was lying in the water.

WITNESS. At the time when the sheer took place? No, sir.

M'r Steele:

Q. When the ship struck?

A. Yes, sir.

Q. I understood you to say something about when the hawser was hauled up it was in two or parted?

A. Yes, sir.

Q. Broken or cut?

A. I didn't say anything about cut. It was in two pieces.

Q. One piece hanging to your vessel?

A. Yes, sir.

Q. And the other piece to the ship?

342 A. Yes, sir.

Judge **BEEBE.** Ask him what was the length of the part of the hawser that remained attached to his boat.

WITNESS. I cannot say.

PHILADELPHIA BAR ASSOCIATION

M'r Steele:

Q. Do you know how it was broken?

A. I do not know exactly how it was broken.

Q. Did you feel any strain, or jerk, or pull? Wouldn't you ordinarily feel it if a hawser between you and a ship you were towing breaks; wouldn't you feel the shock?

A. No, sir.

Q. You would not?

A. No, sir; that is, I didn't feel any.

Q. You don't know, then, how it came in two, but it was in two?

A. It was in two.

The court:

Did you examine it to see whether it was broken or not?

A. No, sir; I did not.

Judge **Beebe**. We shall have the end of it here in court.

M'r Wallis:

Q. I didn't understand some of the questions here about the middle of this channel. I want to get it perfectly clear. I understood
343 you to say that you sighted the lights; put the Government lights in range?

A. Yes, sir.

Q. And by the range of these Government lights these vessels were lying in the middle of the channel; that is to say, they were lying in the range of these lights?

A. Yes, sir; in the range of the lights.

Q. You then stated that on a previous occasion you had gone up and down the river with a vessel drawing 22½ feet?

A. Up.

Q. In the same range precisely?

A. In the same range.

Q. In the same range in which these dredges were lying?

A. Yes, sir.

Q. That is, when you went along the range of the lights you carried a vessel with 22½ feet?

A. Yes, sir; I brought up the ship Oakland, drawing 22½ feet, within the range of the lights.

Q. Now, as regards these buoys that you have spoken of, be good enough to tell the court whether or not you were able to run that channel before the lights were put there at night.

A. No, sir.

Q. How did you run in the day?

344 A. By the buoys.

Q. And until those lights and range-buoys were put up by the Government you could not run at all?

A. No, sir.

M'r Steele:

Q. If the moonlight was so bright that you could see the buoys as well as by the sun, you could run then?

A. Yes, sir; if it ever was as bright as by the sun.

M'r Wallis:

Q. Have you ever seen the moon in that condition?

A. No, sir.

M'r Steele:

Q. If it was a bright moonlight and starlight night, couldn't you see them?

A. What draft of water?

Q. With 14 feet of water, if you please.

A. No, sir.

Q. In a channel with 24 feet of depth?

A. No, sir; there was no safety.

Q. You could not see the buoys?

A. I could see the buoys, yes, sir.

Q. Couldn't you run by them if you could see them?

A. Not with safety.

345 Q. Why not? How would you run by them in safety in the day-time?

A. Because you have got to keep the buoys in range, so many of them in range of each other, in order to run the channel, for one reason; of course, in the night-time you cannot see the buoys at a distance off so as to keep four or five of them in range of each other.

Q. Can you see the next one?

A. They are supposed to be half a mile apart.

Q. If it is a bright starlight, moonlight night, when you pass one buoy can you see the next one?

A. No, sir; you cannot.

M'r Wallis:

Q. You cannot see enough to keep in range?

A. No, sir; not enough to keep in range.

M'r Steele:

Q. Can you run from one to another?

A. You have got to see two or three of them together, in range of each other.

Judge Beebe:

Q. I don't understand you to say in your testimony that when you saw this ship take this sheer that you saw that watchman on the dredge slack the hawser at all; he only told you he would.

A. I didn't see him slack the hawser, and I didn't say so.

346 Q. Again, was it before or after you saw the sheer that you sung out to him to slack his hawser?

A. It was just before that I seen the sheer.

Q. Almost instantly?

A. Yes, sir. And I says to him, "Slack down your lines." And he says, "I will slack the lines."

Q. Then you looked and saw the ship take a sheer which way?

A. I looked & saw that the ship was apparently going to the eastward.

LOUIS EHRMAN sworn.

M'r Wallis:

Q. You are one of the owners of this tug?

A. Yes, sir.

Q. What is your business?

A. I am engaged in towing, and have a grocery and ship-chandlery store over at Locust Point.

Q. Are you familiar with the business of towing?

A. I have become somewhat familiar with it since I have been in the business, but not a great deal.

Judge **BEEBE**. M'r Marshall, my associate, thinks there might have been a little mistake in my understanding or the court's under-
347 standing the testimony of Capt. Anderson on a certain point, and, as I don't wish there should be any mistake about it, I desire to recall the captain for a moment.

Captain Isaac J. Anderson recalled.

Judge Beebe:

Q. I asked you this morning in regard to your hawser's hanging in the water. When did I understand that was; before the collision or before the sheer?

A. It was before the collision, sir.

Q. That is what I supposed. As soon as you saw the sheer, then, you rang to "slow and stop?"

A. I rang to "stop and back."

Q. Right off—in quick succession?

A. Yes, sir.

Q. And then at the time the ship actually came in contact with the dredge the hawser was hanging in the water.

A. My hawser was hanging in the water.

Louis Ehrman, resuming.

M'r Wallis:

Q. State whether or not you were on board of this tug on the night of the collision.

A. I was.

Q. As you approached the lowest of the dredges, the one the
348 last down the channel, what took place, if anything?

A. The captain of the boat he tooted with the whistle some distance from the machinery, and he was answered by two distinct whistles.

Q. The captain of the steam tug tooted; how far below was he?

A. Some distance below.

Q. He tooted as he approached the machine, and he was answered by two distinct whistles?

A. Two distinct whistles.

Q. Where were you?

A. In the pilot-house.

Q. Whereabouts?

A. Standing by the captain.

Q. What part of the tug is that?

A. That is forward.

Q. You heard two distinct whistles, and then you went on?

A. The captain answered them and kept on.

Q. After the two whistles had been given from the machine, your captain answered them?

A. Yes, sir; by two distinct whistles.

Q. And then went on?

A. Yes, sir.

Q. When you came up nearly abreast of the machine, what took place? Go on, and tell the whole story.

349 A. There was nothing particular. Do you mean the first machine?

Q. Yes.

A. Well, the captain blew two distinct whistles and we went on, and I saw a man with a light on the machine, and we went by all right apparently. I saw nothing.

Q. Now, first, I want to ask you—you say you noticed nothing in particular, except you saw a man on the deck as you passed ?

A. Yes, sir, as we passed the first machine.

Q. Very well; what happened as you approached the second machine ?

A. As we approached the second machine the captain tooted his whistle again, as an indication of warning to look out, and just before we got up to the machine (I have always been in the habit of looking around & watching) I saw the ship take a peculiar sheer to the eastward, start of to the eastward. I said, "My George, captain, see where that ship is going." The captain looked and he tooted his whistle, but she seemed to keep her course right straight, apparently to the eastward; and by that time we were then approaching the machine pretty close—I disremember exactly how close—and the captain he ran out & hallooed to know
350 where they were going, and as we got up to the machine he hallooed to the man to slack his line down with the top of his voice; being a distance off, it required the top of his voice. The man hallooed back it was all right, he would attend to his lines; and the captain found the ship was not coming about, and he hallooed below to cast off the hawser to let the ship go to the eastward, as I fully expected she was going, but by some means or another she kind of headed right direct for the machine, and struck the machine, floating by.

Q. Did she seem to continue on ?

A. Yes, sir.

Q. Well, after she struck the machine ?

A. The wind was blowing pretty fresh at the time, and blew her stern around, and she was turned around to the westward, across the channel. Capt. Anderson came around with the tug-boat and took a line from the starboard quarter to pull her away from the machine. While she was coming around some one on the machine hallooed that the machine was sinking, and Capt. Anderson replied to pump until they got the ship clear of the wreck; so we got around under the stern of the ship and got a hawser to it and pulled the ship clear, and after getting her clear, the wind being to the eastward and southward, her bow
351 played off, & he let the ship come by the machine, and then went around to the machine's assistance; and when we got around to the machine, on the eastern side, the men were all in the boat, and the captain hailed them, while we were a short distance from the boat, and said, "Go aboard of the boat and hand me a hawser so that I can haul the machine out of the channel." They made no reply. We remained around there a little while and stood by, and they pulled direct for the lower machine, and in a little while the machine sunk, and then we went back to the ship, and got the ship under way and towed her to town.

Q. State to the court whether you noticed, yourself, or were able to judge, in going into the channel, by the lights, where these dredges lay; did you see the lights of the dredges ?

A. Yes, sir; & I remarked to Capt. Anderson, says I, "Captain, these machines are lying right in the range of those lights." We had to open the lights to pass them.

Q. They were lying then right in the range ?

A. Yes, sir; right in the range, as near as I could judge. Of course we have to run the channel by those ranges.

352 Q. Have you been in the habit of going up and down that channel?

A. Yes, sir; I have been going a great deal ever since it has been in operation. I think I was aboard of the boat the first night those lights were lit, with a barque drawing *drawing* some 18 or 19 feet of water.

Q. How did you sail? How did you go? What course did you pursue?

A. Right in the range of the lights.

Q. You had a vessel of 19 feet?

A. Some 18 or 19 feet.

Q. You went precisely then in the course in which these dredges were lying on the night of this collision?

A. Yes, sir.

Q. Have you any experience or observation of the depth of water, or the safety of vessels passing on the westward of that channel?

A. I have no more than only what I have seen. A vessel that I am familiar with, that I am acquainted with, owned by a friend of mine, was apparently just on the outer edge of the channel, and it was ashore there, a vessel drawing 13 feet of water.

Q. How far was that north or south from this place?

353 A. I judge it was about half-way down the channel; I disremember the exact distance.

Q. How near was she to the centre of the channel?

A. I don't think she could have been a great ways out of the way, because we passed by with a ship, and we had the range on the lights right over our stern, because I noticed particularly. I pay especial attention in going up and down to get all the information I can, and I noticed particularly and saw the vessel. I saw that she was stopped, and I kind of thought it was singular too that that vessel should stop there, and I took the range of the lights, and she appeared to be a little outside from us.

Q. And you were running in range of the lights?

A. Yes, sir, 150 feet distant, perhaps.

Q. And she was aground?

A. Yes, sir.

Q. How far do you think she was from you abreast?

A. I can't say positively. I judge about 150 feet perhaps, or 100 feet. I didn't think it would be required for me to notice, and I don't know exactly.

Q. You were near enough to see that she was fast aground?

A. Yes, sir. And on another occasion I saw a vessel to *be* eastward,
354 right betwixt or between the buoys. I don't think that her
width was outside of the buoys. Her name was the Almon Birge, a schooner belonging to Boston, and the captain said he would wait until we came back to pull him off; but before we got back there was another boat came and got him off before we got there.

Q. He had to be pulled off?

A. Yes, sir, by tugs.

Q. And he was scarcely outside of the range of these buoys?

A. Yes, sir.

Q. What was his draft?

A. Fourteen or fifteen feet, I think.

M'r TAGART. This is conversation, not evidence.

M'r Wallis:

Q. What did you say was her depth?

A. 14 or 15 feet.

Judge Beebe:

Q. A three-masted schooner?
A. Yes, sir, and sugar-loaded.

The court:

Do I understand you to say that you noticed the sheer of the ship, that is when you were nearly abreast of the second dredge?
A. Yes, sir.
Q. Before you passed the second dredge?
A. Yes, sir.
Q. You saw the sheer of the ship?
355 A. Yes, sir.
Q. There is another question I want to ask you. This is not the only channel to the harbor of Baltimore, is it?
A. It is the only channel for heavy draft.
Q. Isn't there another channel, only a little longer, for ships drawing 13 to 14 feet? Isn't there another channel with plenty of depth of water?
A. I don't know about that. I havn't been down there. I have only heard of the old North Point channel.
Q. Didn't you and all the mariners know that this channel was in course of construction? Didn't you know it by seeing the dredge there, and hadn't you noticed they were at work for the last year and a half?
A. Yes, sir; but we didn't know of this; we didn't know that these machines were down there that night. They had been taken off and replaced that afternoon, and the vessels of heavy draft were obliged to go through this channel on account of depth of water.
Q. Vessels drawing 20 feet of water?
A. Yes, sir.
M'r Wallis. Your honor asks the witness if they didn't know it was in an unfinished condition, but here (referring to a paper) is absolute
356 notice on the part of the Government to mariners to go through it.
Witness. Ever since November they have been going through it.
M'r Wallis. This is a notice to them that it is open to navigation.

Judge Beebe:

Q. M'r Ehrman, what has been the extent of your nautical knowledge?
A. About what?
Q. I mean your experience with vessels?
A. Not a great deal, only around our by here.
Q. Have you followed the water, or are now merely interested in this tug, and go up and down in it?
A. I have been interested in vessels for 20-odd years, but never made it a business in taking charge of anything of that sort.
Q. You do not call yourself a seafaring man?
A. No, sir.
Q. Did you observe the moon that night?
A. Yes, sir.
Q. Well, about what part of the moon was it, what time in the moon?
A. That I don't remember.
Q. Do you remember which way in the heavens you looked to see it, if you saw it at all?
A. I didn't pay any attention, I didn't notice.
357 Q. You didn't notice the moon then at all?
A. No, sir; only it was a bright night.

M'r Steele:

Q. A very bright night?

A. Yes, sir.

Judge Beebe:

Q. When did you take your position in the wheel-house; when did you go into the wheel-house?

A. Why, I was there all the time.

Q. From the time you took your ship?

A. Yes, sir; from that time and before that.

Q. You had been in the wheel-house before you took your ship?

A. Yes, sir.

Q. And you continued in it up to the time of the collision?

A. Yes, sir; though I may have stepped out of it.

Q. But did you go off the upper deck?

A. No, sir; I don't think I went off the upper deck at all.

Q. About what is the length of the Virginia Ehrman?

A. Some 90-odd feet, extreme length.

Q. About how far from her stern is this pilot-house?

A. About 22, 23, or 24 feet; 20-odd feet.

358 Q. Whereabouts was the hawser from the ship made fast on your deck?

A. On the stern-bitt.

Q. On either side, or was it about the centre?

A. That I don't know.

Q. You don't know where the stern-bitts are?

A. You asked me where the hawser was made fast. It was made fast to the stern-bitt.

Q. But you don't know which side?

A. No, sir.

Q. Have you any chocks through which the hawser can pass directly from the stern?

A. We had chocks on the rail.

Q. Do you know w'ether that hawser passed through a chock?

A. No, sir; it didn't.

Q. Have you bitts except on the port or starboard side—stern-bitts?

A. They are supposed to be in the middle.

Q. Between the two sides?

A. The bitts are right abaft of the cabin.

Q. Right about the range of the smoke-stack; about the centre of the vessel?

A. The bitts are near about the middle of the boat.

Q. That is exactly it—from side to side?

A. Yes, sir; in the middle of the boat.

Q. That is the place where the hawser was made fast?

359 A. Yes, sir; to the stern-bitts.

Q. As a matter of course, you know very little about navigation?

A. No, sir; I don't know much about navigation.

Q. You don't profess to know much about that. When did you personally first see the dredge? Where was your position, how far down, when you first saw her?

A. About a mile and a half or so.

Q. When you saw the first dredge?

A. Yes, sir.

Q. What did you see; the dredge or lights?

A. I saw the lights, and then we approached closer & I saw the hull.

Q. This was after you got closer up?

A. Yes, sir.

Q. When you first observed her had you the steering-lights in range? Were you steering by the range-lights—running by them?

A. Yes, sir; but I think the lights were a little open.

Q. On which side?

A. On the west side.

Q. Do you mean that you were steering to the westward of the range, or eastward?

A. I think it was a little open to the westward.

360 Q. Then you were not steering by the range-lights when you first made the dredge?

A. That I don't know exactly, only what I heard.

Q. If you observed it, say so; if not, don't say, because you might hurt yourself or others by guessing. We don't want you to guess. Can you state with certain knowledge?

A. No, sir; I don't know until we got further up.

Q. Before you reached the dredge had you brought the lights in range—at any time before you reached the dredge?

A. No, sir.

Q. Did you continue to open them more?

A. That I don't know; I didn't notice particularly.

Q. Had you seen the second dredge before you reached the first?

A. I saw the lights; yes, sir.

Q. How near do you think you got to the first dredge before you saw the lights of the second? Did you see any lights on the second dredge?

A. I think I saw the second dredge pretty soon after we passed the other machine.

Q. Soon after passing the first machine, you think, you saw the second?

A. Yes, sir.

Q. Did you see any lights on her?

A. Yes, sir.

Q. Which did you see first, the dredge or the lights?

361 A. I saw the lights.

Q. Have you any idea how far you passed from the first dredge?

A. He gave her a pretty good berth; 40 or 50 feet.

Q. That is a matter of estimate—perhaps more or less?

A. Yes, sir; 40 feet, say.

Q. Now, up to that time had you noticed the ship?

A. Yes, sir.

Q. Did you observe that she was following you?

A. She was following us pretty well until we got——

Q. I am talking up to this time—up to the time you passed the first dredge.

A. Yes, sir.

Q. Now, after passing the first dredge, up the time you saw her sheering, had you observed her at all?

A. I used to look at her occasionally.

Q. Now, M'r Ehrman, you will oblige me by giving us your recollection. I want to know if you remember that after you passed the first dredge, up to the time you looked back and saw her sheer, if up to that time you had noticed her?

A. Yes, sir; I had my eyes on her pretty much all the time.

Q. Then she was following you?

A. She appeared to follow along pretty well, though——

Q. Now don't cling to that as though it was your first-born
362 baby; up to that point I am talking about. Now there was a
time when you looked back. Did you see her commence to make
that sheer?

A. Yes, sir.

Q. You saw her commence to make it?

A. Yes, sir; I did. I saw her commence to make that sheer.

Q. That is what I want to get at. At that time you were first about reaching the forward part of the second dredge?

M'r STEELE. That is not what he said.

WITNESS. We had got pretty far up towards the second dredge.

Judge Beebe:

Q. And perhaps had lapped it?

A. Perhaps; I cannot say positively.

Q. When you were looking, as you looked back you saw the sheer commence?

A. Yes, sir.

Q. Was that a sudden sheer?

A. It appeared like it was a sudden sheer.

Q. A very sudden sheer? Now, you called the captain's attention to it?

A. Yes, sir; I did. I said, "My George."

Q. Did you observe any change in your wheel at that time?

A. I did not.

363 Q. When the captain left the wheel-house to go aft who did he
leave at the wheel?

A. He says, M'r Ehrman——

Q. You answer my question by saying that he left.

A. Yes, sir.

Q. That answers it. Did you hear the signal as soon as you spoke to the captain & he left; did you hear the signal from your wheel-house for your boat to "slow," "stop," and "back"?

A. Yes, sir.

Q. You heard that?

A. Yes, sir; I heard it plain.

Q. How many bells?

A. It is 2 bells to make a "slow," "stop," and "back."

Q. That makes a stop all at once?

A. One bell to slow, and one bell to stop.

Q. How many altogether?

A. Four bells altogether.

Q. Did you hear four bells?

A. Yes, sir.

Q. Did you observe whether they were obeyed?

A. I did.

Q. And the forward way of your boat was partially stopped?

A. Yes, sir; partially stopped.

Q. Now, was that before the ship had struck the dredge?

A. That was before the ship struck the dredge.

364 Q. At the time that the ship did strike the dredge, was the
hawser between you and the ship slacked?

A. That I don't know.

Q. You did not observe?

A. No, sir; I did not notice.

Q. But at any rate your headway had partially stopped?

A. Our headway had stopped.

Q. Entirely stopped?

A. Pretty much, sir.

Q. As a matter of course you don't know how many revolutions were taken before she struck the dredge, or anything of that kind?

A. No, sir.

Q. Now, when you had looked and seen this sudden sheer, and you had called the captain's attention to it, then the captain sung out to this man standing on the dredge, "Slack away your line"?

A. "Slack away your line;" and the man replied, "I will attend to them lines."

Q. You were asked about some vessels that you saw ashore, or aground rather.

A. Yes, sir.

Q. In reference to where this dredge sunk, was it to the north or to the south of that point?

A. It was to the southward of that, I think.

Q. Where that schooner was aground?

365 A. Yes, sir.

Q. About how much down, should you think? Give us your best judgment, because that must be an estimate and not measured.

A. I know; but I don't know whether it was a quarter of a mile off, or half a mile off, or how far off.

Q. Can you say it was as much as a quarter of a mile?

A. Yes, sir; I should say it was as much as a quarter of a mile.

Q. You say you also saw a vessel aground on the western side?

A. This was the western side I speak of.

Q. I thought you said it was between the buoys.

A. Yes, sir; just by them; but I thought you asked me about the eastward.

Q. You saw a vessel aground, a sugar-loaded vessel on the eastward side of the channel?

A. Yes, sir.

Q. Nearly between the two buoys and just outside of them?

A. Just apparently abreast in between the buoys.

Q. Now, the other one which you spoke of you saw aground on the western side?

A. Yes, sir.

Q. You think you passed within 200 feet of her?

366 A. Yes, sir.

Q. What was she?

A. She was the same, a three-masted schooner.

Q. How far do you think she was, either to the north or south?

A. She was to the southward.

Q. About how much, should you think?

A. A short distance; I don't remember exactly.

Q. Give us your best estimate of the distance.

A. A quarter of a mile or a half of a mile to the southward.

Q. As a matter of course you have no familiarity with the depth of the water there?

A. No, sir; nothing more than——

Q. From your experience since last November, do ships of your heaviest draft that come into this harbor come in through that channel?

A. No, sir; through the Craighill Channel.

Q. Do those large steamers that come in here take the Craighill Channel?

A. Yes, sir; all of them.

Q. Were you aware of about the amount of excavation that had taken place at the time this collision took place?

A. No, sir.

Q. Did you understand how wide that channel was to be?

367 A. I have always been informed it was to be 300 feet wide.

Q. Well, whatever it was excavated, you understand these range-lights to have been in the centre of whatever was to have been that channel?

A. Yes, sir.

Q. You know nothing to the contrary? Did you see that dredge sink?

A. Yes, sir; I saw her sink.

Q. Which way was she heading, or which way were her bows, when she sunk?

A. She was *l*eading to the southward.

Q. Is there any doubt about it?

A. No, sir; no doubt on my part.

Q. Was that a matter of actual observation?

A. Yes, sir.

Q. You saw it with your own eyes?

A. Yes, sir; I did. The wind was blowing us towards the dredge & before we could get the ship clear of the dredge we had to pull her back to the southward, and when the ship hove around Capt. Anderson was very careful not to destroy any more of the machinery than he could help, but the jib-boom lapped over these upright pieces. In the first place, she went right head on between these pieces, & when the ship's
stern swung around it came across the tops of these, & the cap-
368 tain was very careful in pulling her back, and he had to pull her
right straight back. It somewhat surprised me, the condition that the ship laid in, but we pulled until we got her out right where she went into the machine.

Q. And you know the machine sunk with her head southward?

A. Yes, sir.

M'r Steele:

Q. Did you go down in the tug that afternoon?

A. Yes, sir.

Q. What time did you leave Baltimore?

A. Somewhere, I think, about five o'clock. I didn't notice particular at the time.

Q. Did you see these dredges as you went down?

A. No, sir. I didn't pay any attention to the dredges. We went out through what they call the swash channel; we didn't go that way.

Q. Still you could see them, couldn't you?

A. I suppose a man could see them if he was looking for them. I didn't pay any attention about the machines.

Q. Didn't the swash channel lead into this channel?

A. Yes, sir; at the lower end; at the extreme end of it, I think.

Q. How far was the extreme end of it from the point where the dredge was sunk, where the collision took place?

369 A. That I do not know.

Q. Give us an estimate

A. I think the machine was about half-way down the Craighill Channel, to the best of my recollection.

M'r Wallis:

Q. You think the machine that was run down was about half-way down the Craighill Channel?

A. I think so.

M'r Steele:

Q. You say that going into the Craighill Channel from the swash channel you did not see the dredges?

A. No, sir; I did not notice them. I didn't pay any attention.

Q. You don't say that you were too far away to see them?

A. No, sir; I don't say that; they may have been there.

Q. Were you in the pilot-house with the captain at the time?

A. Yes, sir.

Q. Didn't you look around to see as you went along?

A. I might have been looking around, but I don't remember seeing any dredges. They might have been there and they might not have got there; I don't know.

Q. I suppose they were there, in point of fact, at four o'clock, in
370 their stations, in the positions as they stood, & you left here at
five you would have got down there about half past six, I suppose. Wouldn't you have seen them as you passed?

A. I would see them if I was looking for them.

Q. If you were up in the pilot-house looking around couldn't you see vessels whether you were looking particularly for any vessel or not? Wouldn't you see boats in the water around?

A. Well, now, there is times when we go down that vessels passes us that we have no idea, when we get up here and find them there, we don't know how they got here.

Q. Vessels pass you and you don't know it?

A. Yes, sir, many a time.

Q. In the day-time?

A. Yes, sir; in the day-time a person might be looking or engaged in the pilot-house and not pay any attention.

Q. These dredges were stationary, and you think the reason then that you did not see them was because you did not look for them?

A. Yes, sir; I didn't look for them. If they were there I don't remember. I didn't see them.

Q. Let me see if I understand your testimony as I took it down in
the first instance. I understood you to say that after you had
371 passed the first dredge and were approaching the second the cap-
tain tooted his whistle?

A. Yes, sir.

Q. And there was a reply of the whistle from, I think you said, the second dredge?

A. Well, there was a reply to the tooting.

Q. That is not material to what I was going to say. You looked around and saw the ship, and saw that she had taken a sheer, and you called the captain's attention to it?

A. The first machine?

Q. No, sir; after you had passed the first machine.

A. Yes, sir.

Q. The captain hallowed to the ship, but she still kept her course; that is, after this sheer?

A. Yes, sir; kept to the eastward.

Q. And you stated (I took down your words then) that by that time you had got pretty near the second machine?

A. We were very near up to the machine. We might have been near abreast of the machine or were in the neighborhood of being close up to the machine.

Q. In the neighborhood of being close up to the machine?

A. Yes, sir.

Q. The ship still kept on her course to the eastward and ran into the machine?

372 A. No, sir; she kind of tented back. If she had kept her course to the eastward she would have cleared the machine, but she seemed to go kind of towards the westward, which brought her right square on—head on to the machine. If she had kept going to the eastward she would have hit the machine a kind of glancing blow, but she came head on.

Q. Do you know what brought her around again towards the west?

A. No, sir; I do not. I fully expected she was going clear, going by the machine to the eastward, & that is what Capt. Anderson——

Q. The captain gave orders to let go the hawser?

A. Yes, sir.

Q. Was that order obeyed?

A. That I do not know. I don't know w'ether it was or not. That was his orders down on deck to the man.

Q. Couldn't you see w'ether it was done or not, w'ether the man let go the hawser?

A. No, sir; because I heard the captain say afterwards that the hawser was in two and was hauled in.

Q. Speak only of what you saw and not of what the captain said. How far off did you pass the Craighill, the first dredge; was it more than about 35 feet?

A. We passed a good distance.

373 Q. You would call it about forty feet?

A. Forty or fifty.

Q. Can you say it was more than 35?

A. I should think I could safely.

Q. You think it must have been forty?

A. In the neighborhood of forty or fifty feet. I did not measure it, and if I said 35 I might be as far off as if I said 50, but I will say 40 or 50.

Q. In other words, you do not know.

A. I didn't measure it, but I should judge we were 40 or 50 feet off.

The court:

When the tug passed the dredge?

A. Yes, sir.

M'r Steele:

Q. You were standing in the pilot-house from that time until the time the collision took place?

A. I was in the pilot-house, & the doors are right on the side near the wheel of the pilot-house, and a railing like this [indicating] around it.

Q. Was the course of the tug changed; her wheel altered?

A. I don't know about that; I paid no attention to the course.

Q. I understood you to say a little while ago that her helm was not altered.

A. No, sir; I said I could not tell w'ether her helm was altered or not.

374 Q. You don't know whether the helm was changed or not?

A. I do not.

Q. Let me ask you this question: If you passed the Craighill at 40 feet and the dredge next above (the one that was sunk) was lying 43 feet more to the westward than the Craighill, wouldn't the tug run into her, unless her course had been changed, if she had kept on her course ?

A. That I don't know. If that machine laid exactly 40 feet, & the captain had not changed his course, he certainly would have run into that machine if she had laid 40 to 50 feet more to the westward from the other one.

Q. Then you infer——

M'r Wallis. I think his inferences would be good in an argument, but I object to them as testimony.

M'r Steele. It is all inference, I suppose. He says he presumes if this one was 43 feet, (he has stated it all, & I merely repeat what he states,) that if the dredge that was at the north, the one that was run down, was 43 feet to the west of the other, (to witness,) then you say that if the course had not been changed, running 40 feet only from the first dredge, that they would have struck the second dredge. You infer from that, I presume, that there must have been a change of
375 course if she did not strike ?

M'r Wallis. He does not say there was any change of course. It does not require witnesses to prove that; it must be mathematically the fact.

M'r Steele. I want him to state what the course of the vessel was when she passed the first dredge. I understand she passed within 40 feet & was steering by the lights of the Craighill channel—the range of the lights.

M'r Wallis. Then you stated as a supposition what he knows nothing about.

M'r Steele. I put the question to him, if she had kept in the same course, the next machine being 43 feet further west, whether she would not have struck that second dredge, & he says she would.

M'r Wallis. Of course.

M'r Steele:

Q. As she did not strike, why wouldn't you infer that she changed her course ? If the second dredge was 43 feet further to the west, and the tug didn't strike her, would you not infer that she must have changed her course to avoid striking ? Could she have avoided it without changing her course ?

A. Well, it does not look reasonable to me that if one dredge laid 40
feet out by and the other one laid 43 feet further to the westward,
376 undoubtedly it looks reasonable to suppose if it was so, it was
just like going out through here, [indicating,] & it would be natural to suppose that if this table was 40 feet further this way, [indicating,] further to the westward, the other one would be 40 feet to the eastward—the other dredge; & suppose the tug kept right straight along, it would be natural to suppose she would go into the other dredge.

M'r Wallis. But it might as well be inferred that she was not 43 feet to the westward as that she changed her course.

M'r Steele. Still I assume that to be the fact; and (to witness) you say, as I understand you, that before you reached the first dredge the range of lights were opened somewhat to the westward.

A. I think they were opened a little to clear the machine, because the captain—but I don't suppose you want me to say what the capt. said.

Q. May I correct what I have put down here as stated by you ? I will repeat it to you. That you saw the lights of the second dredge before you came to the first, although you could not see her hull?

A. Yes, sir; I think I saw the lights.

Q. I understood you to say so.

A. That is so.

377 Q. Can you state to the court by what anchor the dredge was holding when she sunk? Was it her stern anchor or those that were out ahead?

A. No, sir; I don't think it was her stern anchor; it could not have been that, for that would have held her up.

Q. How close were you to the dredge when she sunk?

A. We were only a short distance off. We went up to get a hawser from her.

Q. You went up nearer to get a hawser from her?

A. Yes, sir. The boat had just left, and the capt. hallooed to them in the boat to come back and give him a hawser to tow the dredge out of the channel.

Q. Did you see the dredge after she had sunk, in passing & repassing by there?

A. Yes, sir.

Q. Did you see which way her head was lying from the part that was protruding above the water?

A. It didn't appear to me she had changed any from her original position.

Q. After she had got to the bottom she could not well change.

A. We came by on the 29th of the month. There were two large vessels——

Q. That was four days after?

A. Yes, sir; about four days after.

Q. How was she lying then?

378 A. I think she was lying about as she went down.

Q. How was her head?

A. Her head was to the southward; I think so.

Q. Did you see which way the boom was?

A. Yes, sir; that is what made me think so; that drew my attention to it. And then she laid as fair up and down the channel as could be. She had a scow on each side; that was when they were trying to get her up.

Q. Is your opinion that when she sunk her head was south, formed from what you saw of her lying there?

A. I am satisfied that when she sunk she sunk with her head to the southward.

Q. I don't ask you that. I ask if your reason for thinking so is from the position you saw her lying in there after she had sunk; whether that is the reason you supposed she sunk with her head to the south?

A. Yes, sir; I judge her head was south from the appearance of the crane.

Q. Was that the reason you think she sunk with her head to the south—she seemed to be lying with her head to the south when you saw her in the water there?

A. No, sir; that didn't make me think so because she sunk that way.

379 Judge Beebe:

You saw her sink?

A. Yes, sir; I saw her go down. She went down as fair as she was lying.

M'r Steele:

Q. You say there were two scows, one on each side?

A. Yes, sir.

Q. Which way did the boom project, north or south?

A. I think it stood about as it did when she went down.

Q. Did it look north or south?

A. South.

Q. You are positive that she sunk with her head to the south?

A. Yes, sir; I am positive about that, I think, because it was but a few minutes after we got the ship clear that she went down.

M'r Wallis:

Were you present at the conversation that took place between the capt. of the Italian vessel & your own master?

A. Yes, sir.

Q. The one that Capt. Anderson spoke of?

A. Yes, sir.

Q. Where was that? State where it took place.

A. After we got the ship under way and started to Baltimore (we anchored her after she struck the machine to give the machine assistance) we got the ship under way again, and before approaching
380 Fort McHenry, knowing there was a harbor full of shipping, in
order to get a safe anchorage the captain thought he would stop & go alongside of the vessel & pick a good anchorage for her, & he tooted his whistles for her to take in her hawser. Well, some time elapsed; it appeared like he could not make them understand what it meant, & some one came on the bow & I heard Capt. Anderson halloo to them to take in their hawser. So whilst this was going on the ship started then to go to the westward for F't McHenry, & Capt. Anderson, at the top of his voice, hallooed to them to port their wheel; that they were going right on Fort McHenry bar. They ported their wheel & they came right in the wake of——

Judge BEEBE. I don't like to object, but it is a long answer and a history that is entirely unnecessary.

WITNESS. I was coming to that conversation.

Judge BEEBE. It is a long way around.

M'r WALLIS. Cut it short.

WITNESS. We came alongside of the ship and I heard the captain say, "Look out for my ship, I haven't any pilot aboard;" & I heard Capt Anderson say, "Where is your pilot?" He says, "My pilot is asleep," and the captain says "Go and wake him up," and he says, "This is a pretty time bringing a ship into harbor without a pilot," and
381 the captain started off. I saw him when he was coming aft, & he
came back & said he could not wake him. We carried the ship in & anchored her & left her.

The court:

Did you see the pilot yourself?

A. No, sir. When we went alongside of the ship Capt. Anderson told him to take him ashore. The pilot didn't go ashore with us.

Q. You never saw the pilot at all?

A. Yes, sir; I saw him when the ship struck; he was aft when we got a stern-line from her.

Q. You saw the pilot then?

A. Yes, sir; on deck.

Q. How far was he from you?

A. Well, we were right close by.

Q. Did you hear him talk?

A. Yes, sir.

Q. What was his condition?

A. I couldn't say.

Q. What should you think it was then?

Judge BEEBE. Judge, that is speculative.

The court:

What was your impression then of his condition?

A. I could not say conscientiously about that. I am well acquainted with the pilot, and when we went aboard I asked the pilot (I didn't know who the pilot was when the ship struck; we didn't know
382 who the pilot was until the ship struck) then, when we went around to take the hawser from her stern to pull her clear of the wreck——

M'r Wallis:

Q. You have spoken of a conversation that you heard between Capt. Anderson & the captain of the ship. Was the mate present at the time?

A. Yes, sir; I think there was two men. I could not see them to designate them at the time, but since then I have learned who the gentlemen were.

Q. One answered to the call of captain?

A. Yes, sir.

Q. Did you hear anything said by the other party in the presence of the captain to Capt. Anderson that night?

A. No, sir; nothing more than that.

Q. Did you hear anything said by the captain or mate, at the time, in regard to their being engaged in clewing up the mizzen-topsail at the time of the collision?

A. I heard it, but I didn't hear them say it. I heard——

Judge Beebe:

Q. This conversation of which you have spoken—at that time you were on the deck of the tug, and these parties were on the ship?

A. They were right close alongside of me.

383 Q. I understand; but they were on the ship?

A. Yes, sir.

Q. And you were on your own tug?

A. Yes, sir.

Q. Was it an English vessel?

A. Yes, sir.

M'r Steele:

Q. In reference to the pilot, did you see him that night?

A. No, sir; I did not see him.

Q. Were you near enough to judge whether the pilot was drunk or not at the time you saw him?

A. No, sir; I could not see. The ship has got a pretty high waist, and I could just see the pilot's shoulders and head.

Q. You could hear him talk?

A. Yes, sir.

Q. Was he sober from the way in which he talked?

A. I could not judge from his language that he was tight, but he asked the captain of the tug some questions.

Q. Well, from the questions that he asked, what did it indicate?

A. I could not say.

Q. Do you recollect what the questions were?

A. Yes, sir.

Q. Suppose you state them?

384 When the ship struck & we got around under the stern, the pilot says, says he, "Anderson, did that machine have any light up?" The captain made use of a rather vulgar expression, and wanted to know if he could not see them.

M'r WALLIS. You mean a profane expression?

A. Yes, sir.

M'r Steele:

Q. Was that all that took place?

A. Yes, sir; that was all that took place at that time, and then we asked for a hawser from the stern of the ship & pulled the ship clear of the machine.

M'r Wallis:

Q. He asked Capt. Anderson whether the dredge had any lights?

A. Yes, sir.

M'r Steele:

Q. Do you know the fact whether the pilot has been discharged?

A. So I have been informed.

Judge BEEBE. This is not the way to prove anything, because it is not true.

The court:

Do you know whether this Italian captain made any charges against him when he came to this port—against this pilot—of your own knowledge?

385 A. Yes, sir; I think he did.

Judge Beebe:

Do you know anything about it of your own knowledge, or only what you have heard? I mean about the charges being made to the board here.

A. According to the captain's affidavit.

Q. The captain of the ship. But do you know of your own knowledge that the charges were made? Have you been to the board? Did you hear any charges made? Have you been examined as a witness, or anything of the kind, or have you seen the charges?

A. No, sir; nothing more than I heard that he was suspended.

The Court:

Do you know of your own knowledge that the Italian captain made any protest?

A. Yes, sir; he noted a protest.

Judge Beebe:

Q. Who made the contract for the towing of the ship up?

A. Well, I think the pilot done all the talking about that. We were a distance off. We had to keep away. It was blowing fresh, & we had to keep away.

Q. Whatever bargain was made was made with the pilot?

A. I judge it was the pilot.

386 Q. At any rate, it was a man who talked English?

A. Yes, sir. From the language that he used, I don't think it was any——

Q. It was not the language of a foreigner?

A. No, sir.

Capt. Isaac J. Anderson re called.

M'r Wallis:

Q. What course did you keep from the time you passed the first dredge up to the time you came abreast of the second?

A. I kept the same course; that is, with the lights a little open to the westward.

Q. You kept the same course that you had when you passed the first dredge?

A. Yes, sir; the same course, with the lights a little open to the westward.

Q. That was the course you had when you passed the first machine?

A. Yes, sir; I kept the same course, with the lights a little open to the westward.

Q. Do you mean that you opened the lights more to the westward?

A. No, sir; just the same.

387 Q. When you past the first of the dredges then you were going with the lights open a little to the westward?

A. Yes, sir.

Q. And you kept the course until you got abreast of the second dredge?

A. I kept the course until the collision took place; and after getting the ship under way, & passing the last machine, I then brought the lights in range of each other.

Judge Beebe:

Q. Before you reached the first dredge what course were you steering on?

A. I was then steering with the lights in range, from north to north half east.

Q. What is the course of the channel?

A. That is the course we have to steer. It varies about half a point on account of current or wind, the way it is blowing.

Q. You make an allowance for that?

A. Yes, sir.

Q. What is the exact course of the channel?

A. The exact course laid down is due north & south.

Q. Then you ran it N. half E. about, for the purpose of making an allowance for wind and current?

A. Yes, sir.

388 Q. Then you had the lights in range when you were running so?

A. Yes, sir; with the lights in range.

Q. If you had kept on without changing, that would have carried you up against the first dredge?

A. Up to the first dredge.

Q. Then you starboarded to clear her, to give her a berth?

A. Yes, sir; so as to give her a berth.

Q. Then after that did you "steady," or did you keep your starboard?

A. I kept my course——

Q. Did you keep your starboard, or did you steady?

A. I steadied my course.

Q. Where were you when you steadied ?

A. I was then within 20 or 30 feet of the first machine.

Q. Then you were steadied before you passed her ?

A. Of course; yes, sir.

Q. And did you keep on that "steady" from that time on ?

A. I did.

Q. Up to the time of the collision ?

A. Up to the time of the collision.

Q. In other words, when you got on your "steady," and having steadied when you were within 20 feet of the first dredge, what course were you on then; were you steering by compass ? 389

A. By my compass, I cannot——

Q. After you steadied ?

A. By my compass, I cannot say for certain.

Q. Not by your compass, but by compass ?

A. By the compass, I cannot say for certain; I ran by the lights.

Q. You know all the points there, don't you ?

A. I judge N. half W. or quarter W.

Q. Then you did not "steady" on your old course ?

A. No, sir.

Q. You kept on the N. half W.?

A. Yes, sir.

Q. And kept on that course ?

A. I kept on that course.

Q. From the time you were within 20 feet of the first dredge to the time of the collision ?

A. The course was N. quarter W or N. half W.; somewheres between N. and the half point.

M'r Steele:

Q. How much was the change ?

A. A quarter or half point.

Judge Beebe:

Q. You ran first N. half E. ?

A. Varying that much.

390 Q. Then you starboarded and ran off to what point ? Before you reached the first dredge you were running half E. ?

A. From N. to N. half E.

Q. Your exact course was north ?

A. Yes, sir.

Q. And you made a little allowance for current & wind ?

A. Yes, sir.

Q. And that was from about half a point ?

A. Yes, sir; about half a point.

Q. Then you shifted in order to go past the dredge; you changed your course. Now, to what point did you change it ?

A. I changed from N. to N. half W.

Q. Did you keep on the N. half W. from that time to the time of the collision ?

A. Yes, sir; I did.

M'r Wallis:

Q. You had not opened the lights any more from the time you got to the second dredge ?

A. No, sir.

M'r **Steele.** You passed the first dredge at a distance of 20 or 30 feet?

M'r **Beebe.** I don't want to go over that.

M'r Steele:

Q. Well, passing at that distance, if the second dredge was 43
391 feet further west than the first dredge, was your course changed
with a view to clear the second dredge?

A. Yes, sir; my course was made or changed before reaching the first machine, & I kept it that way in order to clear all the dredges.

Q. Before you reached the first machine, then, your change of course took place?

A. Yes, sir; within a distance of 20 feet or more of the first machine my course had been changed, & I steadied.

The **Court.** You had both the dredges in view?

M'r Steele:

Q. You changed your course so as to clear the machines?

A, Yes, sir; all three of them.

The court:

I understand that you had cleared the two when the ship sheered in that way?

A. Yes, sir. If the ship had steered properly she would have been 19 feet still further away than I was.

Judge **Beebe.** I wouldn't guess about that; it might have been 18½.

George W. Blizzard sworn.

M'r Wallis:

392 Q. You were engineer on board of the tug the night of this col-
lision, were you?

A. Yes, sir; I was.

Q. State where you were at the time of the collision.

A. I was in the engine-room.

Q. State, if you please, whether or not at the time you approached the dredge—the dredge that was run down—there was any signals given by your vessel or answered; or perhaps I had better commence by asking you whether, when you passed the first of these dredges, there were any signals interchanged between you and that dredge?

A. I was sitting down in the engine-room and I heard two whistles blown, & I got up and looked out of the door, & I saw the lights of the first machine.

Q. You heard 2 whistles blown?

A. Yes, sir; I thought it was a steamboat. When I went to the starboard door of my engine-room I saw the lights of the machine plainly.

Q. That was the first machine?

A. The first machine; that is when I heard the two whistles blow. I didn't pay much attention to our whistles. Our signals were blowed first to signal the ship.

Q. There was a signal blown from the tug & then there were
393 2 whistles blown, & then you saw the lights of this vessel?

A. Yes, sir.

Q. And then you passed her?

A. Yes, sir.

Q. When you got in the neighborhood of the second dredge what took place?

A. After we passed the first dredge the capt. kept on blowing his whistles to signal the ship.

Judge Beebe:

You had better not guess at that.

A. I am not guessing at that.

Q. The captain didn't tell you, did he?

A. No, sir; but I know it was for that.

M'r Wallis:

Q. At all events, he went on blowing his whistle from time to time?

A. Yes, sir.

Q. What was done in the way of whistling until you got to the second dredge?

A. I don't know; I suppose the captain changed his course.

Q. I said in the way of whistling.

A. He never stopped blowing his whistles until, I suppose, he rang the bells; I was standing in the engine-room at my stand; I looked out of the door and saw the sheer of the ship myself.

Q. Before you got to the first machine he kept tooting?

394 Yes, sir.

Q. And then you heard the 2 whistles from the first dredge, & you looked out of your starboard door & you saw the lights of the dredge and you passed up the channel & the capt. kept on tooting?

A. Yes, sir.

Q. What was the next thing that happened that attracted your attention before the collision?

A. The slowing down of my engines.

Q. Why did you slow?

A. I didn't slow her down; when the ship took the sheer it made a difference in the working of my engine—in the turning of the revolutions—and as soon the revolution stops the engineer takes notice directly.

Q. And you took notice from the slowing of your engine without any order given to yourself to do it?

A. Yes, sir; I then looked out and saw the sheer of the ship; we were not quite to the second machine; I don't know the distance.

The court:

And then you noticed the ship sheer?

A. Yes, sir.

Mr. Wallis:

Q. What took place then?

395 A. The capt. rang 2 bells to "stop" the engine and 2 bells to "back."

Q. Did you stop and back?

A. I did.

Q. What more do you know about the transaction?

A. Well, I don't know that I know anything more about it.

Q. What did you see about the collision?

A. I saw the ship run into the dredge.

Q. The sheer of the ship was in what direction?

A. Eastward.

Q. Did the ship keep in an easterly course or change it?

A. I don't know; I didn't take any particular notice; when I saw the ship take a sheer the capt. rang the bells, & I went to my engine, and after I had done backing her I heard the capt. give orders to pull in the hawser; (I was afraid it would get under my wheel;) and while he was pulling the hawser in, I looked out of the engine-room door & I saw the ship pointing for the dredge; somewhere in that direction.

Judge Beebe:

Q. Were you in the engine-room when you passed the first dredge?

A. Certainly.

Q. Did you leave your engine-room at any time until after the collision that day?

396 A. No, sir.

Q. Where is your engine-room?

A. I suppose it is nearly amidships of the boat; it may be a little aft.

Q. Were you in charge of your engine?

A. I was.

Q. How many doors have you got to your engine-room?

A. Two doors and two windows.

Q. One on each side?

A. Yes, sir.

Q. Where are the windows?

A. The windows are a little aft of the doors.

Q. Also on the side?

A. Yes, sir.

Q. Were your windows open or shut that night?

A. Open.

Q. When you saw the ship did you look out of the door or window?

A. I looked out of the door.

Q. Which door?

A. The starboard door.

Q. Then did you see the ship's stem?

A. I did; her cut-water or bow.

Q. The stem?

A. Yes, sir; I saw that.

397 Q. How did that bear from where you looked at that time?

A. It bore to the eastward. I could not say how many points it was off our stern.

Q. It was well off your stern?

A. Yes, sir.

Q. Was it on the sheer then?

A. Yes, sir.

Q. Sheering?

A. Yes, sir.

Q. Or had sheered?

A. She had already sheered when I looked out of the door.

Q. You had your engine to attend to?

A. Yes, sir; of course.

Q. Did you give her any further attention until she struck?

A. After the bells were rung & after the boat was stopped and backed, I looked out of the door.

Q. The hawser was slack?

A. Yes, sir.

Q. It turned out to be broke?

A. That I don't know.

Q. Didn't you see the end of it on your tug broken?

A. No, sir.

Q. Haven't you since seen that broken part of the hawser?

A. No, sir.

398 Q. Did you hear of it?

A. No, sir; I never heard of it.

Q. Did you suppose the captain had cast the hawser off?

A. I didn't know whether he cast it off or hauled it in.

Q. At any rate, at the time these vessels came together this hawser was slack?

A. Yes, sir; before they came together the hawser was slack.

Q. But at the time you felt this additional strain on your machinery, that is what called your attention to it?

A. Yes, sir.

Q. Can you say whether at that time that your stem was not lapping the dredge?

A. I could not say that.

Q. At any rate, if it was not, it was very close to it?

A. I judge it was.

Q. It might very well have been lapping it; your attention was not attracted to that particularly?

A. If she was not lapping, she was close to lapping.

Q. She was not far off?

A. No, sir.

Q. At the time you saw this sheer?

A. Yes, sir.

399 Q. Whether she steadied on that sheer, or got any more port on her after that sheer, you don't know?

A. No, sir.

Q. Did you see the dredge sink?

A. I did.

Q. You saw her go down?

A. I did.

Q. Which way was her bow?

A. Her bow was towards the lower end of the channel.

Q. Down south?

A. Yes, sir.

Q. Are you sure of that?

A. I am satisfied of it.

Q. Did you see it?

A. Yes, sir; I seen it.

Q. You saw it?

A. I did.

Q. How close were you to it when she went down?

A. I suppose we were about 35 or 40 feet; not as much as that, I don't think.

Q. And you looked at her when she sunk?

A. I did; I took particular notice.

Q. And her bow was down to the southward?

A. Yes, sir.

Q. By her bow I mean where the buckets are.

A. Yes, sir; I mean where the dipper is.

M'r Steele:

400 Q. I understood you to say that your engine was slowed by the sheer of the ship?

A. Yes, sir. I *taken* notice of the working of the engine—the strain on the machine*a*ry.

Q. At that time the hawser must have been taut?

A. Of course it was.

Q. The hawser must have been taut at the time when your engine was slowed by reason of the sheer?

A. Yes, sir.

Q. I understood you to say that at the time when you looked out & saw the sheer the ship had already sheered?

A. Yes, sir; she had.

Q. And you also stated that you were not quite up to the second machine?

A. No, sir.

Q. You were not far off at that time?

A. No, sir; I didn't take any particular notice, but we were not near the machine, I don't think; that is, the tug-boat.

Q. How do you mean near?

A. I don't think we were abreast of it or bows on.

Q. But you were not far off?

A. No, sir.

Q. And you were not what you would call near it?

A. I could not say. I didn't look at the machine when the sheer was; I looked at the vessel.

401 Judge Beebe:

Q. I don't understand you to say that you can swear that she was not quite up?

A. She was not.

Q. Can you swear that you were not lapping?

A. I can.

Q. Didn't you tell me on your cross-examination before that she might have been lapping, if not closely abreast?

A. I say she might have been, but I don't think she was.

Q. But you cannot swear she was not?

A. I cannot swear particularly that she was not; her bow might have been; but I could not say that she was lapping. A tug-boat's bow can be nearer a vessel, & then she is not lapping.

Q. That is not the point I ask you; everybody knows that. But I want to know if your attention was so closely attracted, while looking forward, as to say that she lapped or not.

A. I was looking aft.

Q. Not looking forward at all?

A. No, sir.

LOUIS EHRMAN recalled.

M'r Wallis:

Q. You have been in the habit of going up & down that channel, & I want you to be good enough to state if you have any knowledge 402 of any habit, before or after this collision, of these machines being hauled out of the channel at night?

A. Well, on the night of the 28th, I think it was, it was on a Saturday——

Q. That was three days after?

A. Yes, sir; on the 28th, in coming down the bay, in going through the swash channel, Capt. Anderson remarked to me——

M'r STEELE. Don't say what Capt. Anderson said.

WITNESS. Well, he called my attention to the bay, and as we came down the bay Capt. Anderson remarked to me, "M'r Ehrman," he says——

M'r STEELE. Never mind; we will understand you if you state what you saw.

WITNESS. Well, we went down through the swash channel, & when we got down to the lower end I discovered that the range-lights were entirely clear, & the machines lying pretty well over towards the westward. That was on Saturday night. In coming up we brought up two large vessels in tow, and when we got up to the Craighill Channel, I discovered myself that the machines had entirely hauled over on the extreme western edge of the channel, some distance this side of where the machine was sunk.

M'r Steele:

Q. What night was that?

403 A. That was on the 29th; not in the night; it was in the day-time.

Q. It was in the day-time they were hauled out?

A. It was in the day-time they were out; it was on Sunday.

M'r Wallis:

Q. Saturday night you saw by the lights that the channel was perfectly clear, & Sunday when you came up you found the dredges were hauled out to the edge of the channel?

A. Yes, sir; & we went up and left these dredges a good distance to the westward, & went up the channel and passed the sunken dredge to the westward, of course, and left the others a good way to *to* the westward still.

M'r Steele:

How much water were you drawing that night?

A. We had one loaded barque that would draw, I judge, about 18 feet. It was a large, good-sized barque, & another large barque in ballast that drew only 14 feet.

The court:

Then I understood you you came up on Sunday in the channel, & you passed the sunken dredge to the west?

A. We passed her to the westward, and to the eastward of the two dredges that laid on the flats, I judge.

404 Q. You past to the westward of the sunken dredge?

A. Yes, sir; with those two barques.

Q. Then there was plenty of water to the westward of where the dredge was sunk for you to bring over your tow?

A. We came pretty close. They had a scow close alongside—a scow on each side of this machine, & they had a chain, I think, around her.

Q. Still you passed to the westward?

A. Yes, sir.

Q. With your heavy tow?

A. Yes, sir.

M'r Steele:

Q. You say you went to the westward of the sunken dredge, and to the eastward of those which were there not sunk?

A. Yes, sir.

Q. Did you change your course after you passed the one which was sunk, in order to pass to the eastward of the other two?

A. No, sir. I don't remember changing the course; there appeared to be a straight course right up.

Q. Do you remember that you did not change it?

A. Yes, sir; I do remember.

Q. How close could you pass to them?

405 A. To those machines?

Q. Yes.

A. That were lying off?

Q. Yes.

A. A good distance.

Q. Did you see their anchor-buoys in the day-time?

A. Well, I came to the conclusion that they were lying kind of promiscuously, & I made that remark at the time.

Q. They were lying promiscuously? Did you see their anchor-buoys?

A. There was no occasion to slack any hawsers from where they laid for us to pass over.

Q. Will you answer my question: Did you see the anchor buoys of the dredges?

A. Yes, sir; I saw the head of the anchor.

Q. Wasn't it in the place where it had always been while the dredge was lying there?

A. No, sir; I never saw them lying there.

Q. Never saw the anchor-buoy there before?

A. I never saw the dredges lying there before.

Q. The anchor-buoy was what I asked about.

A. I didn't pay any particular attention to the anchor-buoy. Their anchors didn't interfere with our tow at all. They seemed to be lying pretty well off, & the hawsers were not stretched on the taut.

Q. That was on Sunday, the 29th?

406 A. Yes, sir.

Q. In the day-time?

A. Yes, sir; about five o'clock in the afternoon, I judge.

Captain WILLIAM RIPLEY sworn.

M'r Wallis:

Q. Be good enough to tell the court your business.

A. My business is running tug-boats.

Q. How long have you been running?

A. For about 18 or 20 months.

Q. From this port?

A. Yes, sir.

Q. Are you familiar with this channel?

A. Yes, sir.

Q. Were you running up & down the channel about the time this accident took place?

A. Yes, sir.

Q. What is the vessel you owned?

A. The Alice Ehrman, a tug-boat.

Q. Is there any custom that you are aware of as regards tooting your whistle when you pass those dredges?

A. Yes, sir; we generally make it a point of business to toot our whistle before we get to them.

Q. Is that the general custom?

A. That is the general custom, I presume.

Q. Is that your custom?

407 A. That is my custom.

Q. State whether or not, after this accident occurred, you had any opportunity of observing whether those other dredges which were remaining were removed out of the channel—out of the centre of the channel?

A. I have.

Q. State to the court when & where.

A. I could not tell you exactly the date, but I think it was the fourth day after, or fourth night after, rather.

Q. The fourth night after the accident?

A. Yes, sir. I had a tow to take down. I had not been down since the machine was sunk, & not knowing the position she laid in, in hauling down the channel I hauled down with the lights on, but I saw that below me there was four or five lights, & I imagined them to be the sunken machine, and I ran the lights on until I got a reasonable distance.

Q. You mean you ran in the range of the lights?

A. Yes, sir; until I got within a reasonable distance, & then I could see it was a sunken machine, & I passed to the westward.

Q. Where were the other dredges lying?

A. I passed to the westward of the sunken machine & to the eastward of the lower machine. They were hauled off to the westward side of the channel.

408 Q. Did you do that on more than one occasion?

A. Yes, sir; several occasions.

Q. At night?

A. Yes, sir. I did it after that two nights, successive running.

Q. Did you at any time after this collision see them in the centre of the channel at night, any of them?

A. No, sir; I did not.

Q. By the centre of the channel I mean in the range of the lights.

A. No, sir; I did not.

Judge Beebe:

Q. When did you first commence towing down that channel?

A. The first, I believe, was—I was on the boat that brought the first tow through there—on the tug Alice Ehrman.

Q. When was that?

A. I couldn't say.

Q. Was that before the time of the promulgation of this notice to mariners?

A. It was after Col. Craighill had put in the paper that the Craighill Channel was open for navigation.

Q. And you have been going through ever since?

A. Yes, sir.

409 Q. Had you seen any dredges in that channel from the time you commenced towing there up to the time you saw this sunken dredge and these other dredges?

A. From the time it was open? Yes, sir; I think I had.

Q. Where?

A. Why, they were up at the upper end of it—not exactly at the upper end of it, but at the seven foot knoll—cutting lumps.

Q. After you commenced towing had you any knowledge of the fact that the channel was not cut all clear?

A. No, sir; I had not. I supposed after I saw the notice that the channel was all cleared.

Q. At what width?

A. I took it from the paper to be 300 feet, and I heard others say so.

Q. And these range-lights were in the centre of this 300 feet?

A. Yes, sir; the way it was laid down by Col. Craighill.

Q. Were you familiar with dredges?

A. Yes, sir.

Q. Did you notice which way this dredge was heading as she lay sunk—which way her head was?

410 A. It was to the southward—I supposed it to be her head—the one that the dipper was on.

M'r Steele:

Q. You say it was the fourth night after the accident?

A. Yes, sir; that is my recollection.

Q. What were you towing?

A. I was towing a schooner drawing 18 feet.

Q. You passed to the westward?

A. Yes, sir; of the sunken machine.

Q. Where were the other two machines lying then—near together, or were they far apart?

A. They were no great distance apart. I could not exactly tell the distance.

Q. Were they both below the sunken machine, or one of them above & one below?

A. I cannot say positively now whether they were both below, but I think they were both below, as far as my recollection goes.

Q. Where were they lying—you passed to the eastward of them?

A. Not that night—no, sir.

Q. You passed to the westward of them.

A. I passed to the westward of them. There was not sufficient room for me to go to the eastward of them between the two machines.

The court:

Q. You passed to the westward of all three?

411 A. Yes, sir.

M'r Steele:

Q. With 18 feet of water?

A. Yes, sir.

Q. Was that the same position in which they were lying when you saw them at other times afterwards?

A. No, sir; at other times at night they were out of the channel after that, but in the day they laid in the same position, or near about.

M'r Wallis:

Q. When you went to the east of them was it day or night?

A. It was night; the next night coming down they were more to the westward.

M'r Steele:

Q. They were more to the westward?

A. Yes, sir; they had hauled over to the westward side of the channel or west shore.

Q. Which do you mean?

A. I mean on the starboard side of the channel going down.

Q. They had hauled to the western side of the channel?

A. Yes, sir.

Q. That left you room enough on the eastern side to pass?

412 A. Yes, sir.

Q. How much room do you think there was between the dredges as they then lay and the buoys on the eastern side of the channel.

A. I judge it was about 600 or 700 feet from the eastward side of the channel to where they lay.

Q. From the buoys?

A. Yes, sir; but I would not say positively, of course; at night I could not tell.

The court:

What was the distance between them and the buoys when you passed the dredges to the eastward?

A. I judge 135 or 140 feet; I could not say. They laid in the channel as straight as could be.

M'r Steele:

Q. You spoke of Col. Craighill's publishing a notice; have you a copy of that notice?

A. No, sir; I have not.

Q. When was that—how long ago?

A. I could not say. I happened to pick the paper up, (I was mate under Capt. Anderson,) & I called his attention to it going down the channel.

Q. Give us some idea of how long ago that was?

A. I couldn't say.

Q. Was it a year?

413 A. No, sir; it has not been a year. Anyhow, it was only a few nights before we brought that barque up; it was the first tow through it.

Mr. Wallis:

Q. Did you ever go through it before the lights were put up, at night?

A. No, sir; not at night with any tow.

Mr. Steele:

Q. Do you know whether that notice of Col. Craighill stated that the channel had been buoyed on the eastern edge?

A. Yes, sir; it stated on the eastern side the channel had been buoyed.

Q. Was it a circular, or published it the newspapers?

A. It was in the newspapers.

Q. I understand you to say that the range-lights were in the centre of a channel of 300 feet, about?

A. According to the publication. I don't know anything more than that, and from what I heard others say; that is all I know.

Q. Then 150 feet from the eastern edge would be the centre of the channel, if it was 300 feet wide?

A. Yes, sir.

Q. One hundred & fifty feet from the eastern edge of the channel would have the lights in range? 414

A. Yes, sir; if it was 300 feet wide.

Capt. H. **Almy** sworn:

Mr. Marshall:

Q. What is your occupation?

A. Tug-boating.

Q. You are captain of a tug-boat?

A. Yes, sir.

Q. How long have you been engaged in that business?

A. Seventeen years.

Q. Have you been in this harbor all that time?

A. No, sir.

Q. How long have you been engaged in towing out of Baltimore Harbor?

A. Since last July.

Q. Have you made any observation of the place where this dredge was sunk?

A. Yes, sir.

Q. When did you make it?

A. The 3d of April.

Q. Where did you find the dredge lying at that time?

A. I found her in the middle of the Craighill Channel.

415 Q. How did you fix her in the middle of the channel?

A. By the range of the lights.

Q. Did you make any soundings in the vicinity of this dredge?

A. Yes, sir.

Q. State to what distance to the east and west you sounded.

A. I sounded some 200 yards to the westward and about 300 to the eastward.

Q. What range northward & southward?

A. I sounded from the north end of the channel down to the dredge & below her.

Q. How much below her?

A. I went some 500 yards below her.

Q. So that you sounded, north & south, from the north end of the channel 500 yards, & east 300, and westward 200 yards?

A. Yes, sir.

Q. State what depth of water you found.

A. In the channel I found from 21 to 24 feet.

Q. What was the least depth of water you found in all your soundings?

A. Eastward of the channel I found 18 feet at 200 yards.

The court:

Q. How about the west?

A. I found at 150 yards, outside of the channel, 18 feet.

416 Mr. Marshall:

Q. You sounded on the eastern side further outside than on the western side?

A. Yes, sir; I didn't sound as far up & down on the west.

Q. How far up & down did you go on the west side?

A. From above to below, I suppose I sounded 500 or 600 yards on the west side above & below.

M'r Steele:

Q. Above & below both?

M'r Marshall:

Q. You say you have been engaged 17 years in towing. Now, as the result of your experience & skill, how wide a berth would you think it prudent to give a vessel, such as this steam-dredge, lying at anchor where this was, when you were towing a ship about 218 feet long, draw- 14½ feet of water, with a hawser of about 45 or 50 fathoms, at night—how wide a birth would you think it prudent to give such a vessel?

A. I would not want to go within a hundred feet at least.

Mr. Wallis:

Q. Do you mean to say that the soundings that you made the whole of the distance on the east & west side of the channel that you
417 speak of were uniformly that depth?

A. No, sir.

Q. What was the character of the soundings?

A. It was quite uneven.

Q. What was the shoalest water you found?

A. I sounded out until I got 14 feet to the eastward.

Q. I am not speaking of the east particularly; to the west?

A. I sounded, & I found one or two bunches way to the westward with only 12 feet on them.

Q. How far to the westward?

A. 300 or 400 yards.

Q. Didn't you find lumps on the immediate edge of the excavated portion of the channel?

A. No, sir; I did not.

Q. What were the tugs there cutting away then?

A. I understood you on the edge of the channel?

Q. I say on the edge of the excavated channel; that portion which was excavated?

A. I didn't notice anything to vary more than a foot or so on the edge of the channel.

Q. Isn't there great inequality in the depth there all along?

A. From 21 to 24 feet in the channel.

Q. I mean the edge of it after you got out of the excavated channel
proper; isn't there great inequality; isn't that the character of
418 the bottom all along there?

A. Yes, sir.

Q. What shallow did you find going along the western side; I mean outside of the channel proper, 400 feet?

A. I found 18 feet 200 yards out.

Q. Do you mean to say that was a uniform depth; whether it was in a particular line, or whether the whole belt was 18 feet deep to the extent of 200 feet?

A. For a distance of 500 or 600 yards.

Q. You mean to say 500 or 600 yards west?

A. I mean north & south.

Q. Outside of that 500 or 600 yards, going north & south, what did you find?

A. Well, it varied from 12 to 18 feet outside of that line.

M'r Steele:

Q. Outside of which line?

A. Outside of the 200 yards west.

M'r Wallis:

Q. You mean further west?

A. Yes, sir.

Q. I understood you differently. Suppose that (indicating) to be the channel, and suppose this (indicating) to be west. Now, was there a uniform belt of 18 feet deep 200 yards wide all along the channel?

419 A. There was 200 yards 18 feet.

Q. Uniform?

A. It may have varied six inches; nothing to notice.

Q. On neither the eastern or western side, particularly the western side?

A. No, sir; it was very uniform.

Q. What was the character of your soundings—how often?

A. As fast as a man could cleverly heave and haul the line in. He made probably three or four soundings a minute.

Q. You found no knobs from the deep channel to 500 yards below; you found no shallow at all?

A. I found lumps at the northward end, 500 or 600 yards to the north, and 300 or 400 to the south. I found none south of the dredge.

Q. Then you only examined 500 yards to one side and 300 the other, north and south?

A. I sounded to the south until I came to the hills and lumps.

Q. How far south did you have to go?

A. After I had passed the dredge some three or 400 yards.

Q. After you had passed the dredge some 300 or 400 yards you came to the lumps?

A. Yes, sir; it got somewhat bunchy.

420 Q. What depth?

A. It varied; sometimes it would be three fathoms, & sometimes not more than eleven feet, & sometimes 2½ fathoms.

Q. And that was a distance of some 300 yards below?

A. Yes, sir.

Q. And 300 yards below this was where the bunchiness, as you call it, commenced?

A. Yes, sir.

Q. How far above?

A. I found that clear of bunches from the dredge up, 500 or 600 yards north.

Q. You found sufficient depth of water to the west 200 yards?

A. Yes, sir.

Q. You say you would give a berth of how much?

A. I say 100 feet at least, if I could.

Q. Isn't a vessel in tow with a hawser of the length which has been given to you by my brother who asked you the question, & with a favourable wind, or strong wind & sails up, completely master of her own motions?

A. Well, I don't know, sir, hardly; I have seen them sometimes master, & sometimes when they were not.

421 Q. Do you mean to say that a vessel with a favorable wind, sails up, & a competent crew cannot steer & take her own course, just as she pleases, notwithstanding she is in tow of a tug?

A. Not if she is in shoal water.

Q. But if in water proper to her depth—if she has a vessel drawing 14½ feet, & she is in 23 feet of water?

A. In these narrow channels it is different from where it is broad, because there will be a suction when you are passing anything—another vessel, for instance.

Q. There is no more suction in a narrow channel than in any other, when you pass another vessel?

A. Yes, sir; where you have a heavy draft they suck the bottoms sometimes.

Q. But if a vessel sailing with 18 feet is in a depth of 24 feet, what more suction is there?

A. Well, not unless you come to an object like a dredge or vessel.

Q. But at that depth of water, when you come to an object anchored in broad water, there is just as much as in a channel. What makes the suction?

A. It is one object passing the other.

Q. Then, by one object passing the other, a suction arises whenever one object passes another. Now, tell the court whether a vessel
422 with a strong, stiff breeze just aft, in good condition, with sails

up, going before the wind, & a competent crew, is not perfectly master of her motions, drawing 18 feet while in 24 feet of water. Can't she turn the tug around?

A. Yes, sir; if she had water and room enough to do it in.

Mr. Steele:

Q. You made these surveys or examinations soon after the collision, in April?

A. Yes, sir; the 3rd of April.

Q. Did you see the sunken tug lying there?

A. Yes, sir; I saw her next morning.

Q. The next morning after the collision?

A. Yes, sir.

Q. State which way her head was lying.

A. Her head was to the north.

Capt. **Joshua Shaw** sworn.

Mr. Wallis:

Q. What is your business?

A. I am in the tug-boat business.

Q. How long have you been engaged in it?

A. About 20 years.

Q. Are you familiar with this channel?

A. Yes, sir.

Q. And been in the habit of going through it?

A. Yes, sir.

423 Q. State first whether there is a custom among the tug-boats passing the dredges which are in the channel, as regards giving a signal.

A. Yes, sir; they generally make a practise, if they have a heavy ship, of blowing the whistle for the dredges to slack the lines & give all the room.

Q. How far off do you generally give notice?

A. Well, sometimes half a mile distance.

Q. Did you pass up and down the channel at the time this dredge was lying sunken there?

A. Yes, sir; several times.

Q. Did you notice her position?

A. I don't know how she laid; whether her head lay——

Q. I mean as to her position in the channel.

A. Yes, sir; she laid in about the middle of the channel.

Q. What do you mean by the middle?

A. I mean the centre of the channel.

Q. Do you mean in the range of the lights?

A. Yes, sir; with the lights on.

Q. What about the depth of water to the west, where this dredge was sunken?

A. Well, sir, out of the channel there is about three fathom' of water if you keep clear of the lumps; but you might possibly, with a ship out of the channel, run on the lumps. There is lumps there with 424 twelve & fourteen feet of water just outside of the channel, and I saw a schooner left on one a couple of weeks ago, when I first came into the channel. I thought she was almost in the channel, she was so close to it.

Q. What schooner was it?

A. I forget her name. I towed her up afterwards.

Q. How much water did she draw?

A. Twelve and a half feet. She was not over 50 yards outside.

Q. Which side?

A. The eastern side.

Q. About the depth on the western side?

A. The western side I speak of is about three fathom' water, if you keep clear of the lumps. I would not like to go with a vessel drawing 12 or 15 feet 50 yards from those buoys.

Q. I am not speaking of the eastern side, where the buoys are, but the western. Do your remarks apply to both sides of the channel?

A. Yes, sir; it is lumpy on both sides.

Q. You don't consider it safe, although you might have deep water here and there?

A. Yes, sir. You might have possibly enough for an 18-feet vessel, & then you might run ashore with a vessel drawing 12 feet. You might go clear of one & run ashore on another, just as it happened. The channel is lumpy on each side.

425 Q. And you would not consider it safe with a vessel of 12 or 13 feet to go further than 50 yards from the side of the channel buoys?

A. No, sir; I would not.

Q. Would you consider it safe to go outside at all with a vessel drawing 14½ feet?

A. No, sir; I never go outside with 14 or 15 feet; with a vessel 11 or 10 feet, of course there is no danger.

Q. With a vessel 14 or 15 feet?

A. I keep in the channel.

Q. The vessel in this case was 14 feet 6 inches. Was it or would it be prudent to go outside of the channel with her?

A. No, sir; it would be risky or dangerous to go outside; you would run a risk of going ashore on the lumps.

Q. Do you speak generally as regards the western side of the channel, or with reference to this particular location, where the collision took place?

A. Well, where the dredge laid, there was lumps below, where they were dredging. I saw a bark below, further down, drawing only 12 feet of water, aground. I don't know but one of the tugs run her ashore.

Q. Then that is uncertain as regards the edge, extending the whole way?

A. Yes, sir; there are lumps from the upper to the lower parts.

426 Q. Supposing a vessel to be towed in the channel at the particular point where this collision took place, with a hawser of 40 or 50 fathom, as has been described here, state whether or not the vessel. with a good stiff breeze & her sails up, has command of her motions,

Judge Beebe. As a matter of course, if your honor please, this question is merely hypothetical. There is no evidence in this case that bears out the question, as we say, & therefore we shall object to it as being a hypothetical question, not founded upon any facts shown in the case.

M'r Wallis. Why not?

Judge Beebe. Because we admit all we had were topsails and nothing else; I think, as an expert, that question should not be put to the witness until the evidence is all in. Then the question comes properly before the court. I don't propose to argue it, but I want the right to reserve the objection.

M'r Wallis. But this part of the examination commenced with the last witness, who stated ——

Judge **BEEBE.** Still that was de bene esse. He wanted to go away to leave. There are no facts developed that call for such a hypothetical question.

427 M'r **WALLIS.** The testimony is that the vessel had control of her own motions, & was going nearly as rapidly as the tug.

M'r Wallis:

Q. Now I ask you whether a vessel with a stiff breeze, under the conditions I have named, had control of her own motions—her own steering?

A. Yes, sir; the helm has control, & if she is a heavy ship, she can turn the tug around, & she has entire control of her motions & can sheer to the length of the hawser on either side.

Judge Beebe:

Suppose she is being towed from 8 to 10 miles an hour; that she has two topsails which, without the aid of the tug, would carry her only three miles an hour; do you tell me, then, she has entire control of her own motions?

A. Going three miles an hour?

Q. No; there is a tug ahead, say, that is towing her at the rate of 8 or 10 miles an hour, and she has on her two topsails, which, if the tug was not attached to her, would carry her three or four miles an hour & no more. I want to know then if she would have control of her own motions?

A. Yes, sir, certainly; she has control of the rudder whether towed or not.

Q. Just the same whether the tug was towing her, or the hawser was slack?

428 A. The ship would steer just as well going about 3 miles an hour.

Q. It don't make any difference, then, about the sail?

A. No, sir; it don't make any difference about the sail. It a ship had the speed, she would answer her helm, whether under tow or canvass.

Q. Except that she has a motive power attached to her hull which might control her to a certain degree; wouldn't it control her at all?

A. No, sir; not until she got to a certain angle; then the tug might stop her if she ran. But she might run a quarter of a mile before the tug would stop it.

Q. If the sheer was sudden?

A. No, sir.

Q. It would control it a great deal quicker, holding her by the stem than by the stern?

A. Yes, sir, but it would take some time.

Q. Did you ever sound on either side of that channel?

A. Yes, sir. I have sounded from one end to the other.

Q. Outside of the channel?

A. Yes, sir, & inside.

Q. How far outside?

A. I suppose 100 yards out.

429 Q. And how far up and down, north and south, of where this dredge lay?

A. I have throwed the lead from one end to the other, towing vessels up and down.

Q. How did you find the water 300 to five hundred yards, either way, 100 yards abreast of where this dredge laid?

A. About 18 feet of water when we came in contact with the lumps; sometimes not more that 12 feet.

Q. Can you tell where you found them within that 100 yards?

A. We could go very near the place.

Q. Where the dredge was lying?

A. Yes, sir. I don't know that it was in lumps where that dredge was, but just below & south of the dredge half a mile, and on the north & on the eastern side——

Q. I am not talking about the eastern side.

A. Well, I suppose there is lumps; there is lumps there about a quarter of a mile above her, & above that again.

Q. That leaves a clear space in there of about ¾ of a mile.

A. Yes, sir. I speak of that close to the channel.

Q. I am speaking within a hundred yards of the channel.

A. Yes, sir.

430 Q. I confined my question to your experience, because you had sounded that distance.

A. Yes, sir; but I saw this vessel lying on the eastern side & one on the western side, on a lump, where it was not fifty yards out of the channel, on both sides. That was below the dredge a half mile, I suppose.

Q. That is the one you spoke of?

A. Yes, sir. I cannot judge exactly about the distance.

M'r Wallis:

Q. I forgot to ask you whether, before you went into the tug-boat business, you were not a pilot in this port?

A. Yes, sir; a pilot for 14 years.

M'r Steele:

Q. I want to understand the latter part of your testimony. I understand you to say that immediately at the point where the dredge was there was no lump; there was about 18 feet of water to the west of the channel.

A. Yes, sir; close to the channel—along the edge of the channel.

Q. About 100 yards you had sounded?

A. Yes, sir.

Q. Then a half mile below there was a lump on the western side?

A. Yes, sir; a lump of about 12 feet.

431 Q. How far above do I understand you to say there was a lump on the western side also?

A. That is on the western side, about half way up the channel; two lumps with low water on them.

Q. How far?

A. About a mile and a half above the dredge; but there is then so many lumps outside of the range of the channel I consider it risky for a ship to go outside of the channel.

Q. Did you see the dredge as she laid in the channel after she sunk?

A. Yes, sir; I passed her the next morning after.

Q. Could you tell which way her head was lying?

A. I could not say which way; I know she was sunk in the middle of the channel, with the lights on; but I could not say whether her head was north or south.

Judge Beebe:

Q. How long have you been in this port in this business—piloting & connected with steam-tugs?

A. Thirty-four years.

Q. Now, before this Craighill Channel was opened, through what channel did you bring the large class of vessels?

A. Through the eastern channel—through the North Point Channel.

Q. Describe that channel.

432 A. There is about an average depth of 18 feet of water.

Q. You have carried ships through of larger capacity?

A. Yes, sir; we have carried 20 feet, but we had to wait for high tides. The water is 18 feet on the average.

Q. How much room do you want between the bottom of the ship and the ground to call it safe towage?

A. Well, we like to have them clear the bottom altogether. If they clear the bottom a foot the ship will steer very well.

Q. With a vessel drawing 14½ feet that channel is perfectly safe isn't it?

A. Oh, yes, sir.

Q. What is its width?

A. I suppose the channel for a vessel drawing 14 feet of water—well, 400 yards you might go safely.

M'r Wallis:

Q. Since the Craighill Channel has been in operation, which channel is run by heavy vessels?

A. We use the Craighill altogether for large vessels, & small, too, go through.

Q. It is much shorther?

433 A. Yes, sir; and it is lit up nights, & it is no trouble to go through.

Q. Is the other channel lit up at all?

A. No, sir; not now.

Q. It used to be?

A. Yes, sir.

Judge Beebe:

Q. There are no dredges in this channel now?

A. No, sir.

Captain **David S. Asprill** sworn.

M'r Wallis:

Q. What is your occupation?

A. A steamboatman.

Q. Do you own a tug?

A. Yes, sir.

Q. How long have you been at it?

A. I have been following the water since 1859.

Q. Are you familiar with this channel?

A. I believe so.

Q. State, if you please, what is the custom of tugs passing through (if there be any) when they pass these dredges, as regards giving notice.

A. They merely toot the whistle; may be two or three times.

Q. Is that the invariable practice?

A. Yes, sir; as a general thing, either night or day.

Q. What for.

434 A. For them to slack the lines down and give us room to pass.

Q. What is their habit as regards slackening the lines?

A. Well, sometimes they allow a tug-boat to pass over the line, and coming within 15 or 20 feet of the vessel's bow, they slack the lines; they can do it very quick.

Q. Sometimes they don't slack them until the bow of the ship comes within 15 or 20 feet of them ?

A. Yes, sir.

Q. They do it quickly you say ?

A. Yes, sir; they can do it quickly. It is taut, & the line is wet, & sinks.

Judge BEEBE. I suppose they are indifferent, and don't care how little they do for you.

M'r Wallis:

Q. Do you know about the state of water on the western side of the channel, outside of the channel proper ?

A. No, sir; nothing more than I know it is very lumpy.

Q. From your experience and knowledge, how far out, about this locality where this dredge was sunk would you consider it safe to go with a vessel drawing 14 or 15 feet ?

435 A. I would not consider it safe to go outside of the channel at all.

Q. Why ?

A. Because it is a dredge channel, and lights are put there to run in range, & if you go outside of the range either way you are likely to run ashore. You may go clear & you may not.

Q. Allow me to ask you a question. You are familiar with towing ?

A. Yes, sir.

Q. A vessel with topsails set & a brisk wind immediately aft, drawing 14½ feet of water, with a hawser of 40 or 50 fathom in tow, has she or not control of her own motions ?

A. She certainly has.

Q. Can she steer in any direction she pleases ?

A. I should think she could.

Judge Beebe:

Q. If it is not safe to bring those lights out of range in towing, (I am talking now of this particular channel,) then, with dredges occupying the centre where the range runs, it is not safe to tow in the channel, is it ?

A. I suppose you might go 40 or 50 feet either way from the middle of the channel, or perhaps 100 feet; but we generally try to run the range on.

Q. But I understand you to say this, that if you get these lights out of range, it is not safe anyway ?

436 A. Oh, no.

Q. Then I misunderstood you. I don't undertake to say that you desire to say anything that is wrong or that you wouldn't stick to, as a matter of course. Now you think you might throw those lights out of range 100 feet in passing by & have it safe in that channel ?

A. It may be in 14 feet of water.

Q. But I am talking now of this very channel we are talking about; suppose the dredge lies in the middle of the channel so that she is in the range of the lights, now do I understand that you can throw the lights out of range so as to pass within a hundred feet of the dredge ?

A. You might with safety, and then again you might not.

Q. As a matter of course, you might or might not; but I want to know whether you think it would be prudent to throw those lights so much out of range as that ?

A. You need not get the lights out of range so much. You might open the lights ten feet & then it would be 100 feet out of the centre of the channel.

Q. Well then, how far do you think it is safe to run either side of one of those dredges, in running up and down the channel ?

437 A. It would not be safe to run over 30 feet.

Q. You think you must run within 30 feet ?

A. Yes, sir; with any decent kind of draft of water

Q. What boat are you attached to ?

A. I had the Rayman. [?]

Q. Are you the owner of her ?

A. No, sir. She was owned by a man named Devinny.

Q. After this collision were you up and down this channel ?

A. I was in the day-time, but not at night.

Q. I mean were you at night ?

A. No, sir.

Q. Did you on any Sunday ?

A. Not while the dredge lay in the channel.

Q. Not that particular dredge. I mean while they were engaged in filling that contract—while they were dredging there did you pass ?

A. I did.

Q. Do you know whether these dredges were hauled off one side ?

A. I don't know.

M'r Steele:

Q. Do you know the place where the dredge sunk ?

A. Yes, sir; I do; but I don't know exactly the depth of water.

438 Q. Do you know the depth of water to the west of that channel, for 300 or 400 yards up and down ?

A. No, sir. I do not.

The court:

Did you see the sunken dredge there ?

A. Yes, sir.

Q. Which way was she heading ?

A. As near north & south as I could judge.

Q. The head was to the north ?

A. I don't know which you call the head.

Q. I mean the end like this (illustrating) V.

A. I think that was to the south.

(The photographs of the dredge were shown to the witness.)

WITNESS. It was headed to the south, as far as I know.

Judge Beebe:

Q. Did you ever do any sounding ?

A. Not in that channel.

Q. I mean in the Craighill.

A. No, sir.

Q. Did you know there was to be any more dredging done there until you saw the dredging-machines placed there ?

A. No, sir.

Q. You supposed the channel was cut down all the way through ?

439 A. I considered that the channel was completed. I understood that the channel was completed, & the dredges were only digging lumps out of the channel & to wind the contract up.

Captain SHAW recalled.

M'r Steele:

Q. I wish to ask you whether or not there is any custom here that a dredge at work in the channel should whistle to an approaching tug or steamer to let her know which side of the dredge she shall go?

A. No. sir. There is no custom.

Captain JOHN T. GARRETT sworn.

M'r Wallis:

Q. Be good enough to tell the court what your employment is.

A. I am tug-boating.

Q. How long have you been at it?

A. Four or five years.

Q. Have you or not at any time been employed in dredging this channel?

A. Yes, sir.

Q. When?

A. Last summer was a year. I was aboard of the Kate, that was engaged in towing M'r Teemeyer's machines.

440 Q. Where were they?

A. Up by North Point and up by the new fort.

Q. What was the habit of the dredges doing that work, as regards keeping in and out of the channel at night?

A. If the wind at night was such that by lifting their spuds they would swing clear they would pull them up & let them swing clear.

Q. If they would swing around to the wind by pulling up their spuds, you would pull them up and let them swing; if not, would you haul them out of the channel?

A. Yes, sir.

Q. That happened every night?

A. Yes, sir; invariably.

Q. On Sundays they were kept there?

A. Yes, sir.

Judge Beebe:

That was a very short job, wasn't it?

A. It didn't require any great length of time.

Q. Easily swung back?

A. Yes, sir. They could swing themselves back if they were lying at anchor. If their anchor was in the channel they could.

M'r Wallis:

Leaving their anchors in the channel they could easily haul themselves out to it in the morning?

A. Yes, sir.

441 M'r Steele:

You were engaged on the tug, I believe?

A. Yes, sir; on board the tug Kate at the time.

Q. What was your duty on the tug in reference to the dredges?

A. I was captain of the tug. We were towing the mud away from them in scows.

Q. What part of the channel—where was that?

A. It was at two different points. At first by the new fort, & then again further down the channel towards North Point.

Q. How far down by North Point—past, or opposite?

A. We were opposite, this side, & 2 or 3 miles below it.

The court:

Q. How wide was the channel there?

A. The channel is not more than 200 or 300 feet wide, I should not think, as far as I could judge; I do not say positively.

Mr. Steele:

Q. Do you know whether that channel that you commenced work on last year was 140 feet only wide?

A. I do not say positively.

Q. Call it to your recollection—do you mean to say that it was only 140 feet wide?

A. I do not say 200 feet positively—as far as I can judge.

Q. You do not know, in point of fact?

A. No, sir; I was not informed of the fact at all, & I did not measure it.

442 Q. When was it that you were at work there?

A. Last summer was a year. That was before any of these "clam-digging machines" went down there—before Curtis or Fobes went down.

Q. You call this kind of machine "clam-diggers."

A. Yes, sir; that is the name they go by.

Q. And the others are called what?

A. Scoop-machines, as far as I know.

Q. Whose dredges were at work there?

A. M'r Teemyer's—the American Dredge Company the machines belonged to.

Q. Under whose direction were they at work there; do you recollect the officers?

A. No, sir; I could not say.

Q. Was it Col. Craighill?

A. M'r Hutton was chief down there, I believe. He was the man they got their orders from. I don't know; I didn't go in their offices.

Q. Do you know how these dredges anchored there—how many anchors?

A. I think one anchor & three spuds in the middle.

Q. If they laid there with three spuds, was there a liability of their getting broken if the water got rough at night?

A. Yes, sir; if the water got very rough.

443 Q. They relied upon the spuds to keep them in place?

A. Yes, sir; while working.

Q. How many anchors?

A. But one.

Q. They had one anchor and three spuds, and in case of rough weather the spuds might be broken. Wasn't the object in swinging the dredge around to her anchor & taking up the spuds to prevent the breaking of the spuds in case there should be rough weather at night?

A. I don't know; I didn't ask them what they did it for. I saw them do it.

Q. Didn't you ever hear it talked of & understand what they did it for?

A. I know in rough weather, during the day-time, when they could not work, they lifted their spuds & came to anchor.

Judge BEEBE. There was only 18 or 20 days out of the month that they could work.

WITNESS. That is so.

M'r Wallis:

Q. The water was not likely to be much rougher 50 yards from the channel than in the centre of the channel, was it?

A. No, sir.

M'r Steele:

444 Q. They don't put the spuds down when they swing around?

A. No, sir.

Capt. ALEXANDER JONES sworn.

M'r Wallis:

Q. You are a master-mariner, & have been for many years?

A. I used to be.

Q. How long does your experience at sea go back?

A. Ever since 1818, about.

Q. Are you now engaged in the business of tugging or owning tugs?

A. My tug business I have been engaged in 12 years, I believe, though in the early part of the war they were nearly all taken away from me by the Government; there was a necessity for them.

Q. The principal question I want to ask you is, when a vessel drawing 14½ feet of water, before a strong, good wind, with her topsails set, with a tow-line of 40 or 50 fathom', astern of a tug, I want you to tell me whether or not she has control of her own motions.

A. I think she has control of her movements to a pretty large degree, and if she has a sheer out, and does not follow the boat, she will pull the boat her direction, she is so much heavier.

445 Q. The tug-boat cannot control her motion if she sheers out?

A. No, sir; it cannot, if she keeps upon it.

Q. What is the business & proper seamanship for those on board of the sailing-vessel, under those circumstances, in tow?

A. They should certainly have followed the boat with care & kept the ship on the boat's starboard bow; undoubtedly she should have kept the boat on her starboard bow.

Judge Beebe:

Ships in steering, whether they are towed or not, will yaw some, won't they? They are apt to be caught by tide or wind.

A. They will yaw a little one way or the other.

Q. And that sometimes requires more space than if they steered without yawing, as a matter of course; of course they are not the controllers of their own motions as though they hadn't any tug?

A. Not entirely.

Q. According to the power of strength of the tug—the motive-power she has—the motive-power that causes it but a sudden sheer, the wheel being put the wrong way, or something of that kind, will make her go off on her hawser, and if the tug has not strength enough she will keep off until she gets over that sheer?

A. Yes, sir; they often do that & even run off & break hawsers.
446 I had a ship myself & she ran away with the boat when she would smell the bottom & broke the hawser, & then she would be drawing 20 feet of water.

Q. That is one of the dangers & risks, isn't it?

A. Yes, sir.

Q. And she will yaw & sometimes take her head & run off?

A. Yes, sir.

Captain **JAMES ECHBERGER** (?) sworn.

M'r Wallis:

Q. How long have you been a mariner?

A. Since 1815.

Q. You have been often towed, I venture to say?

A. I have.

Q. Let me ask you the same question I asked Capt. Jones; that is when you are in tow, with a free, good wind, with topsails set, (you have heard the description of this vessel drawing 14½ feet behind a tug with a hawser of 40 or 50 fathoms,) has the ship control of her motions?

A. I think she has entire control of her motions.

Q. Can she, if she is behind a tug, keep in the line of the tug, or the line she ought to keep in, without having somebody at her helm to direct her in the course?

447 Judge **BEEBE**. There is no doubt about that. We need not waste time on that.

M'r Wallis:

What ought to have been the course of this vessel, steering behind with proper seamanship, in the location & direction you have heard?

A. They ought to have kept the tug on the starboard bow, so that they could see her by the man at the wheel & steer by the tug. I understand that the tug had the ship's line from the starboard bow & ought to have kept on the starboard bow or be seen on the starboard bow.

Q. It is hardly necessary to ask the question, but the tug being here, (indicating,) & the line being on the starboard bow, if the tug exercised any influence upon the motion of the vessel at all, it would be to pull her to port, wouldn't it?

A. Yes, sir.

Judge **BEEBE**. That depends upon whether she is going straight ahead.

M'r Wallis:

Q. If she was not steering just ahead & exercised any influence over the motion of the vessel, over the direction, it would be to pull the starboard bow around & give the vessel a head rather to port?

A. Yes, sir.

Judge Beebe:

Q. You have followed the sea. You never followed steam-tugging?

448 A. No, sir.

Q. How long is it since you stopped going to sea?

A. About 18 months.

Q. Now your experience has been principally in sailing ships?

A. Yes, sir.

Q. Now you take a ship 218 feet long, that is long for a sailing-ship, isn't it?

A. Yes, sir; that is a long ship.

Q. Or take any other ship that steers by the rudder astern, if that rudder is changed, where is its influence first felt—in what part of the ship?

A. It must be felt aft, in the stern.

Q. Then the changing of the head of the ship, of her stern, will depend upon her length in a great measure, the build being the same?

A. It is according to how far they have the wheel up or down.

Q. I understand; but I mean to say if there is a change of her course, by the change of her stern, that comes after the influence of this change of the helm has traveled from stern to stem; that is the fact?

A. Yes, sir.

Q. In other words, the stern first feels it & then the stem?

449 A. Yes, sir.

Q. And the quickness with which that is felt depends upon the length of the ship?

A. Yes, sir; of course.

Q. You take a little yacht and they will feel it quicker?

A. Yes, sir; she will turn around in half her length.

Q. Now, you have seen this ship here; she is 218 feet long. Now suppose her wheel to be amidships, and they start as rapidly as they can to put their wheel hard over, & she is going through the water from 8 to 10 miles an hour, how far do you think she would run before she would change a point?

A. She would run, I suppose, may be a whole length before she would start a point.

Q. Wouldn't she probably run further than that?

A. Well, if they have the wheel hard up, I think in the whole length she might.

Q. I mean from amidships and put it over; I want to know if she would not probably run twice her length.

A. Probably she would.

Q. Would that change be a gradual one or not?

A. It would be gradual.

Q. Supposing a vessel is going along & her stern comes in
450 contact with a boat, does it take much to change her course?

A. No, sir; if she strikes on the bow she goes off quickly.

Q. It doesn't take much strength to do it, either, does it?

A. No, sir; I think not.

Q. As a matter of course, a power strong enough to tow a ship 8 or 10 miles an hour will have some considerable control over her direction?

A. I don't think so; the ship's wheel will have entire control.

Q. I understand; but won't a tow-boat that is able to tow her 8 or 10 miles an hour have some influence on her strength; suppose she pulls to the port or starboard?

A. She would have a little, but the ship's wheel——

Q. Never mind that.

A. She might have some, if she pulls broad on her bow.

M'r Wallis:

Q. You mean by that at right angles?

A. Very near at right angles.

Judge Beebe:

Q. If she gets a "yaw" or "takes her head," as we nautical men call it, she will run a long distance before you can control her, and she will sometimes pull the stern of the tug around?

451 A. The tug would not control her at all for a long while.

Q. But the time will come when the influence of the tug, if she has power enough, will overcome the sheer?

A. But the ship's way will have to stop, or nearly.

Q. She will not steer as she would if she hadn't anything at the head pulling against her?

A. Of course not; but by the ship's wheel, when going fast through the water, she could not manage herself without the help of the tug.

Q. If there was no controlling power that controls her movements; now in steering, whether by tugs or under sail, a ship that is running before the wind will "yaw," won't she, more or less?

A. Oh, yes; all ships will, and more going before the wind than any other way.

Q. You can hold her steadier on the wind than before the wind?

A. Yes, sir; they will yaw before the wind.

Capt. WILLIAM HUBBARD sworn:

M'r Wallis:

Q. How long have you been following the sea?

A. 52 years.

Q. You know something, then, about being towed?

A. Yes, sir; sometimes.

452 Q. I want to ask you the same question I have just asked the other witnesses. You know the distance that these vessels were apart & the draft of water of the ship—all that has been described?

A. Yes, sir.

Q. Which would have control over the motions of the ship, the helm of the ship or the tug-boat?

A. The helm of the ship.

Q. How much could the ship sheer if she pleased?

A. Well, a flat ship will sheer further than a sharp ship; a sharp ship will not sheer so far before she can be checked. I have seen them run almost up to the tug-boat before you could stop the sheer.

Q. The amount of influence you have over every ship is dependent on the distance she is on the larboard or starboard side?

A. Yes, sir.

Q. So that they could bring her head around?

A. Yes, sir.

Q. What would have been the course then for the ship to steer?

A. Which side was the hawser on?

Q. The hawser was on the starboard bow.

A. Then she should have kept the smoke-stack open so that she could have seen it.

Judge Beebe:

Q. Now I want to ask you some questions. When a ship is steered by a wheel or rudder, which rudder is under her stern; what part of the ship first feels the influence of the rudder? 453

458 A. Aft.

Q. Then the change of her course by her stern depends upon her length?

A. Depends upon her length.

Q. And her build, also?

A. Yes, sir, & her build.

Q. In vessels of the same relative build, the longer she is the longer it takes to feel the influence?

A. Yes, sir; certainly.

Q. Take some of the large steamers that come into the port of New York—these very long steamers—isn't it true that they have difficulty in turning in that large harbor?

A. Certainly they do, on account of their length & the length of time it takes for the wheel to operate.

Q. Now take one of these short yachts, clipper-built, & they will turn in their length?

A. Yes, sir, nearly in their length.

Q. This vessel is 218 feet long; that is pretty long for a sailing-vessel?

A. Yes, sir.

Q. Take a vessel of that length & let her be going 8 to 10 miles through the water, or by the land, over the bottom, & let her wheel be amidships when the attempt is made, & then you put it hard over
454 or hard up, hard astarboard or hard aport, how far do you think she would run before she could change her head a point?

A. She would run a length or a length and a half before she would change to the position you wanted to get the vessel in; when it got to swinging it would swing quick, then.

Q. Would that be sudden or gradual?

A. It would be gradual at first, when it first started.

Q. I mean until she began to feel its influence?

A. Yes, sir.

Q. And when she began to fall off, or come up, she would go fast?

A. Yes, sir.

Q. Take a vessel where the side of the stem of the vessel comes in contact with an obstacle, with the current or anything else, (although that is not as strong as a dock,) but suppose her head strikes a current running across her, does it take more than an instant for the stern to feel it?

A. As soon as it strikes her she will feel it more or less.

Q. But if she goes suddenly on some object on the side of her stem, or her bow, won't that send her off?

A. Yes, sir.

Q. Quickly?

A. Yes, sir; just at the time being it would.

455 Q. It makes a rank sheer?

A. Yes, sir.

Q. And if a ship like her gets a rank sheer it keeps it longer than a short ship?

A. Yes, sir; certainly.

Q. For, as a matter of course, the distance which a ship runs when she takes what is called her head, or a sheer, depends very much upon the power that is controlling her; she will probably run, at any rate, until she gets pretty well up to the length of her hawser?

A. Yes, sir; according to the speed of the ship.

Q. Yes, the speed of the ship; but I mean to say this, that the control, outside of the wheel, will depend very much upon the power which is controlling her motion when that begins to bear?

A. Oh, yes; of course.

Q. A tug 50 feet long, with a 16-inch cylinder, will not control the motion of a ship as quick as a tug 100 feet long & having a 32-inch cylinder?

A. I think the wheel would control her quicker than the tug.

Q. But wouldn't that help control her?

A. Yes, sir; of course it would have an influence.

Q. In other words, I suppose the ship gets a starboard sheer on her, and the wheel of the ship is put hard a-starboard, & at the same
456 time the tug pull up strong to port. I want to know if she would not control that sheer quicker by the wheel and the tug than by the wheel alone.

A. As a matter of course.

M'r Wallis:

Q. When you are steering a vessel properly, don't you sometimes find her yawing?

A. Oh, yes, sir, sometimes, & she has to have two or three spokes down or hard up to steady her; you must catch her in time. It is as much the man as the ship.

Q. She does not get a broad yaw on her if she is properly steered?

A. No, sir.

Judge Beebe:

Q. And sometimes they will take their head when closely watched?

A. Oh, yes; sometimes.

M'r Wallis:

Q. What is to prevent her from keeping her head?

A. A heavy sea.

Q. But when in smooth water & the wind right aft?

A. A flat ship will steer wild, & no man can help it; but a sharp ship can be steered by anybody who watches it.

457 Q. Is it the business of the man at the helm to watch her?

A. Yes, sir; or of somebody there to direct him.

Judge Beebe:

Q. If she had three men, you would not ask any more?

A. No, sir. Three would be enough to hold her if it was a competent man in charge.

M'r Steele:

Q. You say a vessel of this size, with a fair wind, a tolerable stiff one, unless well & carefully steered, will yaw in this way?

A. Yes, sir; any ship may.

Q. When she yaws, will she yaw suddenly?

A. Sometimes she will, & sometimes not. If they don't catch her in time with the helm, she gets the yaw on her broad, & then it takes the wheel hard up or down to stop her.

M'r Wallis:

Q. It is very easy to put the helm hard up or down?

A. Well, it takes time; but it is easy enough if it is looked after.

Judge Beebe:

Q. Does a ship steer with more trouble, with more difficulty, in shallow water than in deep water?

A. She does, especially a flat ship.

458 Q. All ships steer worse in shallow water than in deep water?

A. Yes, sir.

M'r Wallis:

Q. Do vessels steer well enough in going up and down the bay?

A. Yes, sir; except flat ships.

Capt. Isaac J. Anderson recalled.

M'r Wallis:

Q. How many points do you think this vessel, when you saw her, changed her course? . How many points do you think she went to the east?

A. I think she must have altered her course from one to two and a half points.

Q. You saw the motion?

A. I did.

Q. Did it look to you like the yaw of a vessel that was yawing before the wind or by the action of the helm?

Judge **Beebe**. I shall not contend it was caused by yawing. It was for an entirely different object I asked the question.

M'r **Wallis**. My brother Steele may take the view it was caused by yawing.

M'r **Steele**. Yes, yawing or bad steering; but my view is bad steering.

M'r Wallis:

459 Q. Did this look like an ordinary yaw of a vessel, or like a direction given by the helm?

A. By being so sudden, I think it must have been given by the——

Judge **Beebe**. That is so much speculative that I must object.

Adjourned until the 22nd instant, at 10 o'clock.

Alexander Bodesta sworn.

(Testifies through an interpreter. A. Scapinich, interpreter.)

Q. Are you the Italian consul?

A. No, sir. I am in the ship-brokers' business in this city.

M'r Beebe:

Q. How old are you?

A. 42.

Q. When were you born?

A. In January.

Q. What is your occupation?

A. Sea captain.

Q. How long have you followed the water?

A. 33 years.

Q. How long have you been officer and master?

A. 20 years an officer and master.

Q. State if you know the ship Agnese.

460 A. Yes, sir; 4 years now since I was on board.

Q. Have you been captain of her for 4 years?

A. Yes, sir.

Q. Where does she hail from?

A. Genoa.

Q. Has he ever been in this port before this voyage?

A. No, sir.

Q. Has he ever been in the United States before?

A. He was once in New York.

Q. State if you know the length of your ship?

A. Yes, sir.

Q. How long is she?

A. 230 feet.

M'r Wallis:

Q. Are the American and Italian feet the same?

A. English feet; 218 feet keel; 230 feet over all.

Q. What is her width?

A. At her widest part, 29 feet.

Q. What is her depth?

A. 38 feet, I think; I am not sure.

Q. (Handing the witness the paper which follows.) These are correct measures?

A. Yes, sir.

Q. A single or double deck vessel?

A. Double-deck.

Q. Built for what? What was she built for, steamer or sailing-vessel?

461 A. Steamer. She used to be a steamer.

Q. And altered to a sailing-vessel? Is she a wooden or iron vessel?

A. All wood.

Q. Is her deck flush fore & aft?

A. Yes, sir.

Q. When she came here was she light or had she any cargo?

A. She came in ballast.

The court:

Q. She came in empty?

A. Yes, sir.

M'r Beebe:

Q. What was her ballast; stone?

A. Sand.

Q. Where did she come from?

A. From Antwerp.

Q. Came here to load?

A. Yes, sir.

Q. Under charter?

A. Yes, sir.

Q. To what house?

A. Gale & Fisher, grain-men.

Q. Expected to take back a cargo of grain?

A. Yes, sir.

Q. Whereabouts did you take tug and pilot?

A. Inside of Cape Henry.

462 Q. When?

A. 23d of March, in the afternoon, about 3 o'clock in the afternoon.

Q. Are you talking about sea-time?

A. Sea-time.

Q. Did he take a tug?

A. Yes, sir.

Q. Does he know where he was off when he took the tug? Was it off Annapolis?

A. He did not know exactly where he was, because he had never been in the bay and it was in the night-time.

Q. It was after dark when he took the tug?

A. Yes, sir; it was after dark, about half past 7.

Q. What sail was the ship under when he took the tug?

A. All sail set except the mainsail; that was clewed up.

Q. Did you have her courses?

A. Yes, sir.

Q. Top-sails, gallant-sails, & jibs?

A. Yes, sir; everything.

Q. Who made the bargain with the tug?

A. The pilot.

Q. Does he speak any English?

A. He understands some words belonging.

Q. And does he understand port?

A. Yes, sir.

463 Q. Starboard?

A. Yes, sir.

Q. And all nautical terms he understands?

A. Yes, sir.

Q. When the tug took hold of him, what sail was taken in?

A. All sails except the topsails, main and fore topsails, was left on her.

Q. What sort of a breeze was blowing?

A. Southeast.

Q. I mean how much of a breeze?

A. 5 or 6 knots, with all sails.

Q. Take it with that breeze and only two topsails, how much would that ship run over the ground; how many knots an 'our?

A. Between two or three miles—about 3 miles.

Q. Not more than that?

A. No, sir.

Q. With all sail, with that breeze, how many knots would she make?

A. About 6 or 6½.

Q. How much water did she draw?

A. 15 French feet.

Q. How many English is that?

A. 14 French feet.

Q. How many English?

A. About 15 English—a little more than 15 feet.

464 Q. Which did she draw most at, stem or stern, or was she on even keel?

A. She drew about six inches more than her stem.

Q. That brought her to about 14 feet six at her stern?

A. About 14.

Q. Was she sharp, flat-bottomed, with a sharp stem?

A. Sharp bottom.

Q. How did the tug take her in tow?

A. Took her ahead.

Q. By hawser?

A. Yes, sir.

Q. How long a hawser?

A. About 50 fathoms.

Q. Where was the hawser made fast on board the ship?

A. To the bitts in the middle of the ship.

Q. About how far abaft the stem were the bitts to which the hawser was made fast?

A. About 20 feet.

Q. What chock did it pass through? Did the hawser pass through, port or starboard?

A. The one nearest to the stem.

Q. I want to know whether it was on the starboard or whether on the port side?

A. The starboard one.

Q. How near was that chock to the stem?

465 A. About three feet.

Q. State if you will measure, this afternoon, the exact distance from the stem to where the forward part of this chock, and how wide the ship is at that point. His notion is the chock was about 3 feet from the stem.

A. Yes, sir.

Q. Tell him to get those exactly for me.

A. About—I cannot say; I think it is about 3 feet.

Q. From the dead ends?

A. Yes, sir.

Q. From the dead ends which fasten on to the stem in that right alongside the stem, from that up to the forward part of that chock. I want to know how far it is, and then how wide the ship is from that point inside to inside and outside to outside, both.

A. It is about 3 feet.

Q. I understand; but I ask him to make the exact measurement' this afternoon, so he can bring them in court to-morrow morning. How much of a crew did he carry?

A. 20.

Q. Where were they when the tug took hold of them?

A. All hands on deck.

Q. Did he have any men at his wheel?

A. Two.

Q. Were they seamen?

466 A. Yes, sir.

Q. Where was the captain?

A. He was on deck with the pilot.

Q. Where was the mate?

Witness. When?

Q. From the time they got their last topsail clewed; from that time where was the mate up to the time of the collision?

A. All on deck.

Q. Did he have any man on the lookout?

A. Yes, sir.

Q. Where was he stationed?

A. Right on the forecastle.

Q. Then all hands on deck, two men at the wheel, pilot, was there, and a man on the lookout?

A. Yes, sir.

Q. And had the tug-lights?

A. Yes, sir.

Q. Had the ship her lights set?

A. Yes, sir.

Q. How was the ship steered in reference to the tug's lights? In other words, how did the tug's lights bear from the ship?

A. The ship was kept so that the tug's lights were a little on the starboard bow.

Q. What kind of a night was it?

467 A. Sometimes, he says, it was clear, and sometimes it was a little cloudy.

Q. State if you saw the first dredge.

A. Yes, sir, he said when he was alongside of her.

Q. Did his lookout report the dredge?

A. Yes, sir.

Q. Did he report it in Italian?

A. Yes, sir.

Q. What did he say?

A. He told him an object, a black object, he could not see what it was.

Q. That was the first dredge?

A. Yes, sir.

Q. Did he see this black object at the time the lookout reported it?

A. Yes, sir; after the man at the lookout reported it.

Q. When he saw it it was alongside the ship?

A. Yes, sir; it was alongside of his vessel.

Q. How near to the object does he think the ship passed?

A. About 20 feet.

Q. State if you felt after passing that you struck any object at all. The first dredge now I am speaking of.

A. No, sir; he did not strike anything, but he thought *he thought* he was slacking line.

Q. He did not feel the ship touch anything?

A. No, sir.

468 Q. When the ship was abreast of the first dredge, as he has stated, how did the tug's lights bear from the ship?

A. Right forward—right ahead.

Q. Did she still maintain the position you speak of now, dead ahead?

A. Very little port on the port bow.

Q. When they passed?

A. Yes, sir; the first dredge.

Q. Was the ship starboarded any so as to bring the tug's light to——

A. No, sir; the vessel was steering very well.

Q. I want to know whether, from that time up *up* to the time of the collision, at any time they opened the tug's lights again on their starboard bow. I am now talking about the first dredge and not the second dredge.

A. No, sir, neither; he was always on the starboard bow.

Q. That is what I said. On her starboard bow?

A. Yes, sir.

Q. That is, when they were at the first dredge, were the tug's lights still on the starboard bow? Did he see any lights on this dark object as he passed it?

A. He says he saw the lights when she was alongside, but it was a very feeble light.

469 Q. Where was the captain himself at that time?

A. The pilot was on the top of the house and the captain was down near the house on deck.

Q. When did the pilot go up on the house?

A. As soon as he took the steamboat, the tug-boat.

Q. From the time the steam-tug was taken, up to the time of the collision, did the pilot go below at all?

A. No, sir; he says he went down once, but he never stayed—I think one minute only, to light a segar, and then came back on deck again.

Q. Was that before or after they had passed the first dredge?

A. Before.

Q. How long before?

A. About one or one and a half hours before.

Q. Before the collision did he see any apparent change in the course of the tug? Did the tug change her course any before the ship struck the second dredge—the collision? Did he see the lights of the tug go off either way?

A. Yes, sir; he saw as soon as the change——

Q. Change where?

A. When she was near to the dredge.

Q. Which way did she change?

A. To the port side.

Q. How was that sheer; rank or gradual?

470 A. Sudden.

By M'r Steele:

Q. A sudden sheer of the tug off aport?

A. Yes, sir.

By M'r Beebe:

Q. At that time had he seen the second dredge; at that time do you say the captain had seen the second dredge?

A. He said he saw the tug go off quick to port.

Q. Now, at that time had the captain seen the second dredge?

A. No, sir.

Q. When the tug made that sheer, how had the ship been steering up to that time in regard to the tug's lights? How were the tug's lights bearing up to the time she made that sudden sheer? Had she been bearing the same?

A. He said that when they saw the sheer of the tug-boat the pilot told him to starboard.

Q. I ask him: before that time, and up to the time the tug made that sheer to port, had the ship been following the tug's lights in the same way?

A. Yes, sir; he was following the tug-boat.

Q. From the time the ship passed the first dredge up to the time of the collision with the second dredge, had her wheel ever been put to port?

471 A. It may be that the sailors did. He was always following the tug-boat; he always tried to keep the lights of the tug-boat on the starboard bow.

Q. Was there any order after passing the first dredge, and up to the time they struck the second dredge—has he any knowledge that this wheel was put to port?

A. No, sir; he says he was not there. He says he was nearly amidships himself.

Q. Was there any order given to port from the time they passed the first dredge up to the time of the second?

A. No; never gave any orders.

Q. What he means is simply shifting the wheel in that way to keep her steady?

A. Yes, sir.

Q. What was the first order that was given in regard to the shifting of the wheel after they passed the first dredge? Which was the first order that was received in regard to the changing of their wheel?

A. It was given; not any order to him.

Q. Was there at any time any order given to change his wheel?

A. He says that the pilot told him to always follow the tug-boat.

Q. Was there any order given to hard starboard or starboard any time before the collision? When he saw the tug-boat going off to port, was any order given to the wheel of the ship?

472 A. Yes, sir.

Q. What was it?

A. An order was given to put the wheel hard astarboard.

Q. Then there was an order given?

A. Yes, sir.

Q. Was that order obeyed? Was the wheel put hard astarboard?

A. Yes, sir; right away, at once.

Q. Who helped to do it?

A. Two sailors on the wheel and the mate helped it.

Q. Then three at the wheel?

A. Yes, sir.

Q. Was this order given to hard starboard as quick as the apparent change came to the tug?

A. Yes, sir; right away.

Q. At the time the order was given to hard astarboard, had he seen the second dredge?

A. No, sir.

Q. Had she been reported by the lookout?

A. He says the same moment when the tug-boat took a sheer the man at the lookout he feared there was another object forward.

Q. How near did the ship get to this black object before he saw it?

A. Very near to it.

473 Q. Did he see any lights on it?

A. No, sir.

By M'r Wallis:

Not on the second dredge?

A. No, sir.

By M'r Beebe:

After he got up did he see any light put up?

A. He says the very moment when he struck the dredge-machine he saw a light hauling up.

Q. After he struck?

A. Yes, sir.

Q. Where was he standing when he saw them hauling up that light?

A. Forward.

Q. When did he go forward?

A. The same moment when she struck he jumped forward.

Q. And after he jumped forward he saw this light?

A. Yes, sir.

Q. How was the ship and the dredge separated?

By M'r Wallis. After the collision.

Witness. Cleared by myself; the second wind made me clear, but as soon as clear the pilot told me to drop the anchor.

Q. The wind drifted you clear?

A. Yes, sir.

Q. Did the tug have hold of him when he went clear from the dredge?

474 A. Afterwards he gave another hawser to the tug-boat.

Q. At the time he gave the hawser to the tug-boat and the ship drifted clear of the dredge?

A. When he struck the dredge the tug-boat came after them, and he passed them a line through the pipe.

Q. And that was the way he cleared him?

A. The tug-boat cleared him from the dredge.

Q. It was not the wind?

A. No, sir; the tug-boat.

Q. Take that ship; he says he has been captain of her four years. Let him have a six or seven knots breeze, the wheel amidships, let the wheel be put then hard astarboard. How far would she run before she would change a point?

A. About three lengths.

Q. Would that change be sudden or gradual?

A. Gradual.

Q. Suppose the sides of the ship's stern or bluff of her bow to strike an object like a rope which will give a spring, would they feel it at all on board of the ship?

A. No, sir.

Suppose the rope to run in that direction, (indicating,) and the ship to strike a glance blow on a rope like that, (indicating,) what
475 would be the effect on her stem?

A. Throw her stem to the starboard.

Q. Would that be quick?

A. Yes, sir.

By M'r BEEBE. I asked him the question what would be the effect of the ship's bluff, the side of the stem, striking a line having an inclination like this, running across the ship's bows, and he says to sheer her off to the starboard. I asked whether that sheer would gradual or quick, and his answer was, a quick sheer.

Q. How did the ship get up to Baltimore that night?

A. The tug-boat towed her up.

Q. Where was the pilot when the ship took hold of him the second time?

A. He says when the second time the tug-boat took him——

Q. Not when he let go, but when he first took hold of him the second time, where was the pilot?

A. The second time, he says, he went into his house on deck.

Q. Was that after the tug had started with him the second time?

A. Yes, sir.

Q. Who gave the directions to hoist the anchor?

A. The pilot.

476 Q. Who gave the directions about letting the anchor go?

A. The pilot.

Q. From the time the tug took hold up to the time of the collision, who had given the directions about steering?

A. The pilot.

Q. Up to the time that the ship took hold of him—the tug took hold of him the second time—had he any indications that the pilot was under the influence of liquor?

A. No, sir; no indication at all.

Q. You say he went after the tug started the second time—the pilot went into the house?

A. Yes, sir; he laid down on his sofa in the house on deck.

Q. And went to sleep?

A. He went down there and did not come out any more after that. When he came to anchor the ship, after the ship got up here to Baltimore, ask him if he went to the pilot.

Q. Did he go to try to wake him up?

A. No, sir; he never spoke to him.

Q. Did he speak to him. Did he know he was in the house asleep?

A. Yes, sir.

Q. He did not try to wake him up?

477 A. Yes, sir; but he told him something, but he could not understand him.

Q. Then he did go and try to wake him up, but he could not wake him up?

A. He said he spoke to him something, but he could not understand what he said.

Q. Then he thought he was under the influence of liquor?

A. He says he thought so; he did not know whether he was drunk or sick, but one or the other.

Q. Had he seen any signs of that before the tug took hold of him the second time?

A. No, sir; he says he calculated he was tired; he had not been asleep the night before.

Q. When had the pilot, to the captain's knowledge, had anything to drink last?

A. He says he never noticed only at dinner-time, and at dinner-time he drank, maybe, about two fingers of gin with water.

Q. Did he have any wine?

A. No, sir.

Q. Is that all that he knew of his drinking?

A. Yes, sir; he thinks so.

Q. What time did he take dinner?

A. Between 4 & 5 o'clock.

478 Q. Ask him if he could hold any conversation in English at that time?

A. No, sir; he wished he could. Some nautical terms is all he knows.

Q. Such as "port," and "starboard," and things of that kind; "forecastle," "main-sail," "jibs," and that kind of things about the ship?

A. Yes, sir.

Q. Ask him if he can read any?

A. No, sir.

Q. Can he understand English?

A. No, sir.

Q. Ask him if he made a protest after he came into this port?

A. Yes, sir.

By M'r Wallis:

Q. Where is it?

M'r **Beebe**. I do not know.

M'r Wallis:

Ask him if he has it?

A. No, sir.

Q. Where is it?

A. In the consul's office.

M'r Beebe:

Q. Did he make any entry in the log? Can he read the protest, suppose this to be a copy of it?

A. No, sir.

Q. Did he make any entry in his log-book himself about this matter?

A. Yes, sir.

479 Q. Ask him to have his log-book in court to-morrow morning.

A. Yes, sir.

Cross-examined by M'r Steele:

Q. After he had passed the first dredge, and saw the tug take the sheer aport, and then discovered the second dredge, what was the course of the ship, her bearing upon that second dredge, before they put the helm to starboard?

A. Always aft of the tug-boat.

M'r **Beebe**. He did not understand that question.

M'r Steele:

Q. After the tug-boat took the sheer, and he saw the dredge upon the course of the ship, then, in reference to the dredge, how was she bearing towards the dredge, the second dredge? He says the tug took the sheer to the port; after the tug took that sheer, and he said there was a black object ahead, and he saw that black object, how was the ship bearing towards that?

A. He says he has always tried to follow the tug-boat.

M'r Beebe:

I will put the question to you. When the tug went off her' to 480 port, and took this rank sheer to port, and he saw the dredge, how was the ship heading towards the dredge, as soon as he saw it?

A. Right ahead.

Q. The dredge was right ahead of the ship?

A. Yes, sir.

By M'r Wallis:

Did he hear any whistle from the tug before he approached the first dredge?

A. Yes, sir.

Q. How far off was he from the first dredge?

A. He cannot say how far distant he was; he heard very often the tug-boat whistle.

Q. Did he hear any whistle when they were approaching the second dredge?

A. Yes, sir.

Q. How far off then?

A. Very little before he struck the dredging-machine.

Q. Was it before or after he saw the black mass before him, before or after he saw the sheer which he has spoken of, of the tug?

A. Nearly the same time when he saw the black object he saw the tug-boat take a sheer.

Q. Did he hear the whistle before that time or not?

A. He heard the tug-boat blowing, whistling before and after, all the time coming up, he says.

Q. He heard the tug-boat whistle before he saw this dark object, as well as after?

A. Yes, sir.

481 Q. Ask him, after he passed the first dredge, whether or not there were any orders of any sort given on board his vessel. I mean not merely orders as to the helm, but orders as to the sailing or any order of any sort.

A. Yes, sir; the pilot gave him some order.

Q. What order did the pilot give?

A. To take the two topsails.

Q. Ask him how long it was after they had passed the first dredge before the pilot gave the order to take in the two topsails?

A. As soon as he passed; immediately after passing the first dredge.

Q. The order was given by the pilot to take in topsails?

A. Yes, sir.

Q. Ask him whether that order was executed or begun to be executed at before that collision took place.

Q. They were working, then, a little before she struck, engaged in taking in these topsails?

A. Yes, sir.

Q. Ask him how many were engaged in doing it.

A. All except two on the wheel, the mate, and the lookout.

Q. They were all engaged in taking in the sails?

482 A. Yes, sir.

Q. Ask him if they were not aloft in the act of doing it at the time the collision took place?

A. They were clewed up already.

Q. When the collision took place?

A. Yes, sir.

Q. And that clewing up took place between the passing of the first dredge and the collision with the second?

A. Yes, sir.

Q. Ask him who had entire command of the vessel after the pilot came on board, the entire direction of the navigation of the vessel?

A. The pilot.

Q. Ask him whether he attempted himself to give any orders as to the navigation of the vessel after the pilot came on board.

A. No, sir.

Q. Now ask him whether or not when he saw this black object before him, which turned out to be the second dredge, he heard the pilot give any order?

A. He says he heard the pilot order—the pilot ordered him to put the wheel hard astarboard.

Q. Will you be good enough to ask him whereabouts the pilot was?

A. In the top of the house.

483 Q. That is about amidships?

A. About amidships.

Q. Ask him if he is sure of that; whether his recollection upon that subject is correct.

A. Yes, sir; he says he made a protest.

Q. Ask him if he didn't state in his protest that when he saw this black mass he heard the pilot give no orders, and run forward in order to give orders to try and prevent it, but it was too late.

A. As soon as the lookout said there was a black object forward the captain jumped forward himself, but before he came forward, he says the men on the wheel here, the men from the lookout, heard there was a black object, and turned the wheel home starboard.

Q. What I asked him is whether the pilot was forward at the time.

A. Yes, sir; he was walking on top of the house.

Q. He was not forward, then?

A. No, sir.

Q. Just ask him whether or not, finding that the pilot did not give the orders which he ought to have given, he did not himself run forward for the purpose of seeing what orders were to be given, and finding it was too late and his vessel was in collision with this black object.

484 A. He says when he was going forward, when the captain was going forward, then the pilot was giving orders himself.

Q. Ask him if he didn't state in his protest that the pilot was so drunk that he was not capable of giving orders.

A. He says that he did not put that in his protest, because the pilot was always on deck and giving orders.

Q. He made a protest?

A. Yes, sir.

Q. Ask him who was the interpreter.

A. He says he does not know his name.

Q. Ask him if he understood his interpreter's Italian.

A. Yes, sir.

Q. He spoke Italian?

A. Yes, sir.

Q. He understood him?

A. Yes; he thinks he did.

M'r WALLIS. I hold in my hand a certified copy of the protest which was made, and I have requested the clerk to summon the Italian consul in order to bring up the original, which the captain states is in his possession. If my brothers will permit me, I will read this certified copy.

M'r BEEBE. I prefer not. The most serious objection is that
485 the captain does not speak a word of English. He is in no way
responsible for what is written there, and cannot read it.

The COURT. What objection have you, M'r Beebe?

M'r BEEBE. I have this objection, and that is, we have a fair presumption. We have got the captain's statement upon the extent of these facts as they did transpire. Now, a document, not his own, the language in which it is written being entirely unknown to him, is sought to be introduced for the purpose of contradicting him as his statement. If your honor please, there is not the slightest evidence that it is his statement. On the contrary, the captain's statement is that it is not; and therefore to seek to contradict him, without showing that he is aware of its contents, has knowledge of it, can appreciate them when properly explained to him, would be as a matter of course laying the foundation for a contradiction which would be eminently unjust to the witness and unfair; and really it is no evidence at all. That is the ground of my objection. If the captain could read, then there would be no objection in the world. I make no objection on the ground that it is a certified copy. If he could read the instrument, it would be all very well. But when he can neither read the original nor the copy, and there
is no proof that it was correctly translated or correctly written
486 after his statement, as a matter of course, it cannot be read in
contradiction. This statement was undoubtedly taken from his
log, if taken at all. He says he did not make an entry in his log for the purpose of showing the certificate of what he did enter in his log, which was made at the time. I have asked the captain to bring his log into court, and it can be translated, and they can have it.

After further discussion, the court said:

"A protest of this kind is a paper known to the commercial world, and is regarded in many cases, particularly in insurance with regard to loss. A paper of this kind, made before a notary public, who is an officer, I may say almost of the law of nations—an officer known to the commercial world and of laws which govern the intercourse between nations—a protest is supposed to be correct, and is evidence certainly against the party making it, when it is signed by him and all his crew. It is presumed to be correct until the contrary is proven, and therefore proper to contradict the evidence that he has given on the stand. I hold it to be admiss*a*ble."

(Exception reserved.)

The protest was then read to the court by M'r Wallis.

By M'r Wallis:

487 Q. Ask the captain whether the statement I have just read
from that protest was true as regards the pilot or not.

A. He says he don't know what you read.

Q. (To the witness:) You do not understand any English?

A. Very little.

Q. How did you carry on conversation with the pilot on board? (thro' interpreter.)

A. He conversed with the sailors' terms.

Q. (To witness:) Does not your mate speak English?

A. Like me.

Q. No better?

A. (Interpreter.) He says he has been three months here now, and picked up a little English.

Q. He don't understand anything about what I read just now?

A. No, sir.

Q. Did you or not give your testimony?

A. (Interpreter.) He says he only understands his name.

Q. Did you or not make your protest through an interpreter?

WITNESS. What is that? Yes, sir.

Q. Who was the interpreter?

A. I never saw him before. (Thro' interpreter.)

M'r Beebe:

Ask the captain if he knew where Annapolis was.

A. No, sir.

488 Q. Ask him if the pilot ever told him that that was the wrong channel to come up?

A. No, sir.

Q. Could he understand them if they had said so?

A. He say' he don't know—may be yes, and may be no.

Q. Ask him, as a matter of fact, whether he saw any signs of intoxication upon the pilot until after he found him asleep.

A. He says he never noticed any sign that he was drunk.

Q. Ask him, when the ship was running into the dredge, if he would have run forward to give any orders.

A. Yes, sir; he says he was willing to give some orders in such cases.

Q. Forward is no place to give orders if a ship is running into another?

A. He says that if the wind is blowing they can hear from forward.

Q. Is that the place he would go to give orders, if he wanted to change the direction of a ship?

A. Yes, sir.

Q. What orders would he give forward, suppose the ship was running into another? Ask him what order he could have given forward at the time the ship and dredge were coming together?

489 A. To avoid the black object.

Q. Would that be aft or forward he would give that order?

A. It was nearly midship.

Q. He would give it to somebody, wouldn't he?

A. Yes, sir.

Q. Ask him did he ever tell anybody that when the ship was going into that dredge that the pilot was so drunk he could not give orders?

A. No, sir.

By M'r Wallis:

He did not tell the captain of the tug so?

A. He says when he started the second time he says he told Captain Anderson that the pilot must be very sick or drunk.

Q. Where was he then?

WITNESS. When they were about starting the second time?

Q. Yes, sir.

Witness. After the collision ?

Q. Yes, sir. He said that the "pilot is sleeping" and "what is the matter with him," "is he drunk or sick ?"

Q. He mentioned that to Captain Anderson in English, not in Italian ?

A. He says he knows what sick is; that is all he mentioned.

490 M'r Wallis. He knows what drunk is, too, don't he ?

M'r Marshall:

Ask him when it was that he told the captain of the tug that.

A. When he was not far from the harbor he told him just to take care and avoid some damage, because the pilot was sleeping, and he thought he was sick or something else.

Q. He told him to avoid damages, because he thought the pilot was sick or drunk ?

A. Yes, sir.

Q. That is when he was coming into the harbor of Baltimore ?

M'r Wallis:

That is when he raised the anchor and came up from below ?

A. Just approaching the harbor he told Captain Anderson to keep a good lookout because the pilot was sleeping, and didn't know what was the matter with him.

Q. Ask the captain if he did not tell M'r —— the day after that the pilot was so drunk that he and the mate and one seaman had to take him below—take him to his berth ?

A. He says he cannot be—— He don't think he can say that, because he was always up on the top of the house—the pilot-house.

Q. He went to sleep there ?

491 A. Yes, sir.

Q. Ask him how long after the collision was it before he went to sleep ?

A. When he was under way to come up he went to sleep.

Q. Ask him who navigated the vessel after that time until she came to port ?

A. The captain always after the tug-boat.

Q. He navigated her himself—he and his officers ?

A. Yes, sir.

Q. Ask him after starting below there whether the pilot exersized any control at all over the management of the ship ?

A. No, sir.

Q. The pilot exercised no control over the management of the vessel ?

A. No, sir.

Q. Ask him if they did not pass a third machine after this collision ?

A. He saw something after he passed the second machine, but he did not know what it was.

Q. Ask him if this object he saw had lights ?

A. He says lights, but he don't know whether the light was on the dredge or somewhere else.

492 Q. Ask him how far he had passed from this third object—this third dredge.

A. He passed a good distance.

Q. Who was directing the navigation of the vessel at that time ?

A. He was always keeping right after the steamer.

Q. Who was ? He was commanding himself directly ?

A. Yes, sir.

M'r Beebe:

Q. Ask him if the hawser parted?

A. Yes, sir.

Q. Part remained on the tug and part on the ship?

A. Yes, sir. Outside, he says.

Q. Was it broken?

A. Yes, sir.

Q. Was it cut, cast off, or broken?

A. He says he cannot say whether it was cut or torn.

Q. He can tell by the look of the end. Has he got the hawser now?

A. It was a long time in the water, and he cannot say.

Q. Did he get a part of it from the tug afterwards?

A. No, sir.

Q. Did he lose part of his hawser that night—a piece of it?

A. Yes, sir.

493 Q. A part of it was gone?

A. Yes, sir.

Q. Now ask him if there was any navigating to do after the tug got under way again except to follow the lines of the tug?

A. Nothing but follow the tug-boat.

Q. That was the general direction he gave to the men at the wheel?

A. Yes, sir.

Captain D. C. **Landis** sworn.

By M'r Beebe:

Q. How long have you followed the water?

A. Thirty-eight years.

Q. How long were you shipmaster?

A. Thirty years and five months.

Q. Have you retired from the ocean?

A. Yes, sir.

Q. Living in Baltimore?

A. Yes, sir.

Q. Have you commanded ships—square-rig' vessels—large ships?

A. Yes, sir.

Q. The Agnese is 230 feet long over all; she is a flat-bottom with a sharp stem, and was built for a steamer, changed into a sailing-vessel; she, as stated, under full sail with a good wholesale breeze, will 494 run over seven and eight miles an hour. Take off all but her two topsails and main and fore-topsail, and with the same wind—that being a favorable wind from aft in both cases—what, in your judgment, would be her speed per hour? How fast would she sail?

Witness. Seven or eight miles, under full canvass?

Counsel. Yes.

Witness. Five or six miles.

Q. Whereabouts does a rudder first act?

A. A rudder first acts upon the stern—communicates to the stem.

Q. Take a ship that is going over the ground seven or eight knots, and let her wheel be amidships—a ship like the one I have spoken of, a flat-bottom, sharp stem—then let the wheel be put hard aport, or hard to the starboard, how far do you think she would run before she would change a point?

A. A length and a half, probably two lengths.

Q. How would that change be—rapid or gradual?

A. Gradually at the beginning, and then afterwards more rapid.

Q. And suppose a ship to be running in that way, and she strikes an
object which would spring like a rope, and if you take the direction of
the rope, how the rope comes in this direction, (indicating,) so she will
strike it gradually, angling across her bow, but not so as to strike
495 her stem, that hits her there on the bluff of the bow or the side
of the stem, what would be the effect upon her course then?

A. Glance off to the starboard.

Q. If you strike a giving object—one that would spring with the blow some—you would be likely to feel it on board of the ship?

A. That would depend a good deal on the size of the object.

Q. Struck a four or five inch line?

A. Not very apt to feel it. It must be something more solid than that.

Q. If she struck against the stem, or on a stone or a rock, or something like that, she would feel it?

A. Yes, sir.

Q. But if she struck a yielding substance like lime?

A. She would not be apt to feel it.

Q. Suppose you are on board of a ship, and you are towing, and you see what you suppose to be a sudden sheer on the part of the tug off to port, would not that fact appear to you to be as if the ship had struck an object like this, which, without your feeling she had hit it, had thrown her up to the starboard?

A. It might be that the ship was thrown up to the starboard.

496 Q. It would appear as if the act of the tug, and not the act of
the ship?

A. Yes, sir.

Q. For instance, here we see it illustrated every day in railroad cars. You are setting in a train while another train is passing you; if you are moving yourself, can you state that positively, certainly which vessel it is that makes the change—whether the ship or the tug—for a change for a point? That would be to say: Suppose this—just look at me—suppose the ship has the tug's length and a half a point on her starboard bow, but suddenly the tug seems to go off to port; now, I want to know if, instead of that tug's giving off to port, the ship had struck some object which sent her—give her a sudden sheer of a point or a point and a half—off to starboard, would it not appear to those on the ship, unless they felt the blow, that the tug itself was going off, although she kept right on?

A. That would appear so; but I don't see but what the ship following the tug, and right after the tug, the tug must strike something first.

Q. No necessarily, because she might pass over the object.

M'r Steele:

The tug-boat drew 11 feet, and the vessel 14½ feet?

497 Witness. If the tug went over the line, and the ship struck
not to' low down—well up the bow—she would glance very much.

Q. It would appear to be as if the tug was going off also, wouldn't it?

A. Yes, sir.

By M'r Steele:

If there was a line running out from the dredge in that direction to the extent of 600 feet (indicating) and the tug is towing the ship with a line 50 fathoms long—45 or 50 fathoms long—and the ship is in a position, before any change in her course is made, to hit the dredge here, (indicating,) can you explain to the court how it would be possible, when the tug had not quite got up to the dredge herself, that the ship, which was here, (indicating,) should hit this line?

A. Oh, no, sir; that cannot be done.

Q. I should think not.

M'r WALLIS. That amounts to saying you cannot hit on a line 50 feet off.

M'r Steele:

I want to apply that evidence to the facts in this case. You witnesses have proved distinctly, and I assume that fact, that the ship's course would hit either about midway between the centre and the starboard corner of the dredge, and the sheer of the ship, which is spoken of, take place when she had not got her bow quite up to the corner
498 of the dredge, and there was 45 or 50 fathoms of hawser between the tug and the ship; now could the ship have hit the line, she being 45 or 50 fathoms behind the tug, the tug not having quite got to the dredge, and the direction of the ship being about or towards the bow of the dredge?

A. No, sir; she could not hit that line, as a matter of course.

Q. Then let me ask you another question. Here is the line (indicating) coming down in this way, the tug passes over it drawing 11 feet of water. Supposing a ship to come after. The ship is keeping the tug on her starboard bow, so that she can see it over the starboard bow; when that ship, so keeping her course *is* that she might have the tug upon her starboard bow, hits that rope, if she were to hit it, high enough for her to hit, on which side of her bow would it hit?

A. It strikes me it would not strike on the starboard side.

Q. Suppose it were 11 feet or more under the water at the point when she passed it; that the tug had passed over, not touching it, drawing 11 feet of water, and the ship that was passing over it draws 14 feet of water, and she split, which way would it turn? The line inclined down in that way, would it turn her bow down or up the line?

499 A. She would go up along the line if she struck it on the stem. If she struck it on the starboard side, it would throw her to port; if on the port side, throw her to the starboard.

Q. If she struck on the stem, she would follow it along?

A. Until she got high enough up on the bow, and then it would glance her off. You see that line is becoming taut all the time. That line would become taut as she run up along, because the tug was pulling her to port.

Q. That is upon the supposition that the line don't run under the bottom?

A. Certainly.

Q. And if it stopped her so much wouldn't it stop her headway?

A. No, sir; the line with an angle would not stop her much in going that fast. It would if you had a great distance to run, as a matter of course.

Q. If she struck it with force enough to change her course, would not you feel the blow?

A. Not so much on the lines, because there is so much spring, unless it was a very stout line. If she had struck a corner of the dredge on the bluff of the bow, then we would have felt it. A line five or six inches among sailor men is a small line.

500 Q. Can you tell me of a line of 600 feet which is run out in water

18 or 20 feet deep and anchored at the end, how much of that line probably would lay on the bottom?

A. It would depend very materially upon how taut they hove it on board of the dredge. Not more than 7 or 8 on the bottom if hove taut. If slacked, there might be a great deal, but it depends entirely upon the strain brought upon it.

Q. Suppose the wind was on the other quarter of the dredge, so that her port line was kept taut, the wind being upon that side?

A. The port line then would have very little on the bottom, and the starboard line have a great deal, which just depends upon the tautness of the line.

By M'r Beebe:

Q. Suppose the wind is blowing right straight up the channel—the wind a 7 or 8 knot breeze—and she had been hove taut, so that she did not fall back, would not that be likely to make the line taut?

A. If her bow line, if she was riding hard on the bow line it would make that very taut; the probabilities are she would drag back far enough to make both sides taut. If she is riding hard by one line
alone, not by the side lines at all, and if she is riding taut, why,
501 the harder she draws on that the more, as a matter of course, she
settles back, and in settling back she brings the side line a good deal tauter than she otherwise would be.

M'r Wallis. This vessel has no bow lines; she rides by the side lines.

Q. Then they must be both taut.

The Court. I understand you to take the position you have described of this dredge, with her lines at starboard and larboard side; if the vessel is coming up after the tug and she encounters this line, she must necessarily encounter it on the starboard bow. The ship must. That must depend very materially upon which side you are going to pass the dredge.

Q. You are going to pass it to the west.

A. If on the port line of the dredge, you must strike it on the starboard bow. If she struck the starboard line, she would not.

The Court. But she is passing the dredge with her head to the southeast, about southward of southeast, and the tug is coming up with her tow on the west side, going to pass this upon their starboard side.

Witness. Upon the dredge's starboard side and the tug going to pass on the west.

The court:

502 If there is a hawser out from the bow of the dredge, and if is
encountered by either the tug or the ship or the tow, must it not be upon their starboard bow?

A. It depends upon the angle of that line. If the angle of that line is well to the southward, she may strike it first upon the port bow, or, drawing off from the dredge, probably strike it right on end—right on the stem.

By M'r Beebe:

This (indicating) represents the starboard of the dredge, heading to the southward; she carries off at an angle like this. As a matter of course, where the anchor is down on the angle, which is much greater than here (indicating) up at the dredge, is there any time when that ship, coming up, would strike her starboard bow on that?

A. No, sir. Not laying at that angle. That is the angle; certainly not less than that.

Q. But she struck her starboard bow there.

A. Oh, no; certainly not. If that was the angle.

By M'r Beebe. We contend that is the angle. They even say more than that.

M'r Steele. A great deal more.

A. But her starboard bow touched it?

Q. No, sir. Certainly not, if that was the angle. If it was there, then she would, and the more she struck it the more would go off the vessel.

503 A. Yes, sir; but she had no head line riding out, I understand.

Q. For instance, if it was here, astern there, and she struck it, the more she hit that the more she would go off from the vessel.

A. Yes, sir.

Q. But if she came against it it would carry her right on to the vessel?

A. Yes, sir. If she struck at that angle, she would go against the dredge, as a matter of course.

Q. If one vessel drawing eleven feet and the other fourteen feet six, the one might pass over the line and the other strike it, certainly, right in the same track?

By M'r Steele:

Let me ask you this question. You had better take a square of the tug. The tug was square. Here is a ship coming down here, (indicating,) which is described as going directly to strike the square here, giving a square *a* blow, about there, (indicating.) On that stern here is a quarter line.

M'r Wallis. By whom described as being that?

M'r Steele. By the two witnesses who have been examined this morning.

M'r Wallis. That is after the sheer.

M'r Steele. No. I mean before that began—the sheer—when
504 the sheer of the tug, as they described it, took place, and they
saw then what the position was, and the other testimony confirms that, but the line goes out at an angle somewhat less than 45 degrees. That line is out at an angle of about 45 degrees, so that it is used as a breast line. There are no breast lines put out by the dredge, Will you tell me how that ship, being the length of the tug, 90 feet. length of the hawser, 300 feet—I will say in round numbers that is 390—how that ship can strike this line before the tug gets up to the dredge?

A. She cannot do it.

M'r Beebe. Certainly not; we have not any doubt about that. If she did not hit the line, it did not sheer her.

By M'r Beebe:

Q. But suppose, instead of that, that instead of its being out here (indicating) the angle was an angle of 15 or 20 degrees, the tug was headed up, so that she went about 40 or 60 feet outside of the dredge, and the ship was pulling her in that direction, then would not she touch it?

A. If the line was taut and raised up off the bottom. If the dredge is riding by that line, and it is taut, she would probably touch that line and glance southward.

Q. That would carry her to the starboard.

505 A. Yes, sir.

By M'r Steele:

Q. Suppose, if the line was perfectly taut, how far would it be above water if 600 feet long?

The WITNESS. Riding taut on it?

Q. Suppose it is stretched and none of it on the ground, how much of it would be above water?

A. It would depend upon the height of the dredge from the water.

Q. 4 feet 10 and 18 feet under.

A. It would strike the water after it left the dredge 25 feet.

Q. And then go down gradually?

A. Yes, sir; because she is riding on it.

Q. Suppose that 25 feet of tug passed over, drawing 11 feet of water, and did not touch it, would not you think then it could not be taut?

A. If it was not taut, the ship would not have gone over.

Q. We have no evidence the ship touched it at all. The tug went over, drawing 11 feet, at a distance of 35 to 40 feet. The tug passed over it; you say at about 25 feet you think it would begin to touch the water; it would be going down very gradually. The 25 feet more making 50, 6 or 8 feet under water.

WITNESS. The 25 feet more?

Q. Would in the same ratio carry it down.

506 A. Yes, sir.

Q. Take it at 40 feet, that would be 15 feet further west than the point where the hawser would go into the water?

A. The tug must have been a considerable distance from the dredge to have gone over it, if it was taut.

Q. I am assuming she was 40 feet west of the dredge when she was abreast of it, and she went over that line without hitting it. Drawing 11 feet of water, would you think then that that line was taut all the way—did not touch the bottom anywhere?

A. No, sir; I could not think that. It must be well on the bottom.

Q. Suppose there was a man standing to let it go, and he did let it go for fifteen or twenty feet, or more, to let it down lower after the tug passed?

A. Then I do not think either the tug or ship would have touched it.

By the court:

If the ship is seen to sheer before she came within the distance prescribed here, the length of the hawser and the length of the tug, and the tug just at that moment had got abreast of the dredge, then she must have sheered from some other cause than striking the hawser?

507 A. That would appear so to me.

The COURT. Mathematically impossible.

Q. Could not sheer unless the helm was—if she sheered to the starboard the helm must have been put to port.

M'r BEEBE. I wish to show your honor how easily it is to be mistaken about it. It is all well enough on the hypothesis that they have given, that the ship crosses this line at 40 feet distance from there; but suppose that to be the angle, (indicating.)

M'r STEELE. I said forty feet west, distinctly.

M'r BEEBE. Suppose that to be the angle on which that anchor is, (indicating.) When the tug comes up 40 or 50 feet to the westward of that, how far down would it strike that hawser?

WITNESS. She did not strike it at all, as I hear.

Q. But how far down would she cross it in order to reach a point that should be 40 or 50 feet off of the port side of the dredge—the starboard side of the dredge?

A. The tug might go over 6 or 7 inches, and the ship might strike it.

Q. What I mean to say is, how far astern of this dredge? Now, put it down here, (indicating.) Would she be likely to cross that hawser, suppose that (indicating) to be the angle of the hawser?

508 A. She would have to be a long ways from it; to be 60 or 70, or 80 feet, probably; could not tell exactly. It would depend on the angle.

Q. Take that angle as it stands. Suppose that to be forty feet. Now, then, suppose this had forty feet; how far down there, in crossing that, would she cross that hawser? Wouldn't it be nearly half the length of it?

A. Yes, sir.

Q. Suppose that hawser to be 600 feet, would not she cross that hawser nearly half the length of it?

A. If the hawser is taut and she gets over it, she would have to be a great ways from the dredge.

Q. Would not that be the actual fact in order to cross that hawser, if she passed the tug 40 or 50 feet to the westward? She must have crossed that hawser at a long distance from the tug, unless the hawser was flat on the bottom?

A. Unless the hawser was very slack; if the hawser was perfectly taut she would have to be a long ways off.

Q. Suppose that (indicating) to be 40 feet from the dredge at this point. Now, if she struck it there, but crossed it there, drawn far enough to cross it there, (indicating,) that would bring her right dead alongside?

A. Yes, sir.

509 Q. In order to get off 40 feet, she has got to cross it there?

A. Where it is low enough to cross.

Q. Far enough for the ship to carry her 40 feet off?

A. When she is abreast of it.

Q. That is an angle that will require some calculation to see about. It would depend upon the distance entirely.

By M'r Marshall:

What would be the effect if the ship should strike that (indicating) end of the *bridge*?

A. The effect would be to throw the dredge to port and throw the ship to starboard.

Q. If it struck this line, throwing this edge of the bridge-line, would it not give the appearance that the ship was making a sheer to the starboard?

A. Yes, sir; it might.

Q. It would just double the appearance of the distance?

A. Yes, sir; if they did not know the dredge was moving.

Q. Suppose that took place; when the ship was about between a length and a half length, might not she, even if the tug had passed over the line, might not she have struck it; if the sheer took place observed by the people of the dredge when it was about a length off, she being 218 feet?

510 A. Certainly, she might have struck the line, and thrown the dredge around.

By M'r Steele:

Here (indicating) is a dredge with her port line on that side (indicating) and one out here at this side at the angle we have just put it at. This tug comes by forty parellel feet distance, coming up there parellel. The tug comes down here and she gets to here, (indicating;) she does not hit the line, but goes over it. That shows at least 12 feet?

The WITNESS. Riding taut on it?

Q. Suppose it is stretched and none of it on the ground, how much of it would be above water?

A. It would depend upon the height of the dredge from the water.

Q. 4 feet 10 and 18 feet under.

A. It would strike the water after it left the dredge 25 feet.

Q. And then go down gradually?

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Q. We have no evidence the ship touched it at all. The tug went over, drawing 11 feet, at a distance of 35 to 40 feet. The tug passed over it; you say at about 25 feet you think it would begin to touch the water; it would be going down very gradually. The 25 feet more making 50, 6 or 8 feet under water.

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A. Precisely.

Q. If the ship is behind the tug 300 feet, and the ship struck so as to sheer by this line when the tug itself had just got up here nearly abreast——

A. No, sir.

Q. Suppose the tug goes across and the ship comes along and hits, and is driven off, tell me if that ship hits it, and make a sheer to the east, seen from the tug, so that the sheer to the east is known, she could have hit this stem a perpendicular blow. The ship see' from another object—the tug—to sheer to the east. Now could she, the ship, hit here (indicating) and sheer off to the east? Could she hit a perpendicular blow on the edge of that dredge?

A. She might strike it on the starboard bow.

Q. Could she hit it a perpendicular blow?

511 A. The blow would be perpendicular wherever she struck it.

Q. Suppose she hit that way, (indicating.)

A. No, not at such a glance as that.

Q. If she was turned off from her to the east, could she have hit it a perpendicular blow in that way, a fair blow, stem on?

A. The stem itself, you know, is nearly perpendicular; she would hit a glance blow.

Q. I am assuming now there is a perpendicular blow?

A. Fore and aft blow.

Q. I want to know if this ship struck her, and was sheered to the east, whether she could with only two lengths off—300 feet off—whether she could have hit a perpendicular blow, or whether sheered to the east if she would not, if she hit it at all, hit it a glance?

A. It depends on the angle. If a very great angle the blow would be a glance one.

M'r Beebe:

Say a point and a half?

A. Then she would have gone into the dredge.

M'r Beebe. Suppose that tug, from the angle of that hawser, starting
4 feet 10 above the water and running down 18 feet below the water,
the south wind blowing up, suppose that tug crossed that hawser
512 300 feet astern of that, then there would be no difficulty about
the ship's striking it when the tug got up here abreast of her.

M'r Steele. The tug was not abreast.

M'r Beebe. Your man Williams says it was abreast.

M'r Steele:

If the tug, drawing 11 feet, passed it, and the ship followed it, and in the mean time the line had been slacked down 15 or 20 feet, would not the ship have passed, drawing 14 feet?

A. Certainly.

M'r Wallis:

This vessel comes up. Suppose her to strike the hawser, she goes off in that direction.

A. If she strike it.

Q. If she strike it hard it naturally brings that around that way, (indicating.)

A. Somewhat.

Q. Would not the result of those motions be to strike nearly, if not quite, in a perpendicular line?

A. Yes, sir.

BALTIMORE, *June* 23, 1874.

The court met, pursuant to an adjournment at ten o'clock a. m.

M'r Steele stated that Captain Lord in looking over his testi-
513 mony discovered where he had made a mistake himself, or had
been misunderstood, and he desired to make a correction of the same.

The court stated that that privilege would be accorded, of course.

Capt. Lord was then recalled and made the following statement;

In regard to the angles those lines run, in regard to that question I think there was a little misunderstanding in the evidence which was read to me yesterday. When Judge Beebe asked me if they were run on an angle of 45 degrees, I think I replied, "Not so much." He asked me how many degrees, and I replied, "I cannot say." He put his arms out in this way (indicating) and asked if out on that angle, and I replied, "I do not think they were." At the distanee of six hundred feet the lines would be a great ways apart. It is stated in my evidence that I said, "Not so much as 20 or 25 degrees." But when I said "not so much," if I recollect aright, it was when Judge Beebe stretched his arm, because I did not want to answer that question, because the angle that the lines were run on was something that I never thought of, because I always stood forward of the dredge when the
tow-boats were running their lines, and directing them where to
514 run to put them out. How much of an angle they run with a
dredge, I could not answer at all.

M'r Steele:

What you answered was that it was from 20 to 25 degrees; that you could not state; that you thought not so much as 45. Can you state now?

A. In going down to the dredge and looking about, and judging from the distance we run the angles, and the length of the line, I should judge about 40 or 45 degrees.

M'r Beebe:

Q. Is that your judgment now?

WITNESS. Yes, sir.

By M'r Steele:

You mean from the forward bitt?

A. Yes, sir.

M'r BEEBE. My recollection is very distinct. You said from 15 to 20, not so much as 25.

M'r STEELE. You asked if 20 or 25.

M'r BEEBE. No; he said from 15 to 20. I said, "As much as 25?" "No," says he, "not so much as 25."

M'r STEELE. I think you will find the question was 25, and he said he could not tell.

WITNESS. My reply was, I think, "I could not say," because it was a question I was not prepared to answer.

M'r WALLIS. In the first place Judge Beebe did not put his arms
515 out in that way that is indicated, but an *an* angle of 45 degrees,
and then brought them together again at a smaller angle.

M'r BEEBE. Whatever that angle was, it was a matter of judgment when you testified before and it is a matter of judgment now, is it not?

WITNESS. No, it is a matter of very correct observation this time, because I went on board the dredge, and you can take the angles from that.

M'r **Beebe.** Was not the exact angle a matter of judgment when you testified before ?

M'r **Steele.** Let the witness finish his answer.

M'r **Beebe.** Certainly; we never like to "muzzle the ox that treadeth out the corn."

Q. Your lines ran up near the stern of the vessel, up near the stem, before they commenced to "wing" on this occasion ?

A. Yes, sir.

M'r **Beebe.** I repeat my question, was not your testimony given before a matter of estimate and judgment ?

Witness. In regard to the 40 or 45 degrees ?

Q. That is a plain question and I would like to have an answer to it. Was it not a matter of estimate and judgment ?

A. I think that was my reply to the question the other day.

516 Q. Whatever it was, was it not a matter of estimate and judgment ?

Witness. If I understood the question.

Q. That is exactly so; is it not the same now ?

A. Well, no; yes.

Q. Have you had any new revelations since you testified last ?

A. Only from going to the dredge and judging from where I usually run the lines, and have run them for the last sixteen months.

Q. Your recollection had not faded on your last examination, had it ?

A. No, sir; but when you come to put me down to the angle that line was to run, it was a question I could not answer.

Q. What took place in March is not likely to have faded out of your memory in June, is it ?

A. Some things not likely, others might.

Q. Especially a thing with which you were so familiar as that ?

Witness. As the lines ?

Mr. Steele:

I understood you to say these lines were put over a bitt for the purpose of taking the place of breast lines.

A. Yes, sir.

Captain W'm H. **Adams** sworn and examined.

By M'r Beebe:

517 Q. How old are you ?

A. I am in my fiftieth year.

Q. Where were you born ?

A. Baltimore.

Q. How long have you continued to reside in Baltimore ?

A. All my life.

Q. What is your business ?

A. Piloting.

Q. Out of the port of Baltimore ?

A. Yes, sir.

Q. How long have you been such pilot ?

A. About thirty years.

Q. During that time have you been constantly engaged in piloting ?

A. Yes, sir; pretty much all the time.

Q. Before that you were serving your time ?

A. Yes, sir; serving an apprenticeship during my boyhood.

Q. How long were you a boy before you became a pilot?

A. I served five years.

Q. All those that are not licensed you call boys without reference to their ages—they are called boys that are serving?

A. Until they get to the full branch.

Q. They are divided into pilots, boat-keepers, and boys?

518 A. No, sir; we do not have any boat-keeper.

Q. How many channels into the port of Baltimore?

WITNESS. Entrance to the river?

COUNSEL. Yes, sir.

A. There are three channels.

Q. What are those channels called?

A. One is called the Swash Channel.

Q. Where does that lead to?

A. That runs inside of the Seven-Foot Knoll. Then there is the Craighill Channel; that goes to the eastward of the knoll. And then that we call the main ship-channel goes around to the eastward of that again.

Q. What is that called?

A. The main ship-channel.

Q. That runs around by what is called North Point?

A. Sandy Point. The main ship-channel runs east of the Craighill, what we call the mouth of the river—Swann Point.

Q. Runs toward Swann Point?

A. Yes, sir.

Q. The opening of the Craighill Channel was to shorten the distance?

A. Yes, sir; some three or four mile'.

By M'r Beebe:

How long is that Brewerton Channel?

A. That runs up the river all the way to Swan Point. I think

519 it is fifteen miles. I would not be positive.

Q. Whereabouts do all those channels converge—into what channel?

A. They come into what is called the Brewerton Channel.

Q. All these, then, you have mentioned?

A. Yes, sir.

By M'r Beebe:

Q. How do both of the other channels bear from the Craighill Channel; whether either of them to the westward, or are they to the eastward?

A. One to the westward and the other to the eastward. The Swash Channel is to the westward and the main ship-channel is to the eastward.

By M'r Beebe:

This Brewerton Channel commences about Seven-Foot Knoll and runs up the river?

A. No, sir; the Craighill was *doved* to Swan Point.

Q. How much water do you carry in the main ship-channel?

A. You can carry 20½ feet in it.

Q. About what width of channel is it?

A. Well, sir, the channel is—I could not say exactly; it is not wider than the Craighill from Swan Point up, or very little wider, if any.

Q. How below that?

A. Below that there is ple*a*nty of width.

Q. Below what?

520 A. Up to Swan Point.

Q. From Swan Point up until you strike the Brewerton Channel, how far is it?

A. Judge about five miles—four or five miles.

Q. Have you sailed ships through that channel?

A. Yes, sir.

Q. Both up and down?

A. Yes, sir.

Q. In this Swash Channel how much water do you carry?

A. We carry from eleven to twelve feet; that is, a smaller class of vessels.

Q. Before the Craighill Channel was excavated how much water could you carry through the Craighill Channel?

A. We never run that at all.

Q. For no size?

A. For nothing.

Q. This Craighill Channel, then, is between the two?

A. Between the two.

Q. In the main ship-channel were there lights placed to indicate the channel?

A. Well, we had lights on North Point that indicate the channel, and then when they cut the Brewerton out they had lights on Hawkins' Point. We used to use that; they are still there—the lights.

521 Q. Did you have other lights up to a particular time?

A. We had lights on North Point up until the first of June.

Q. Until the present first of June?

A. Yes, sir.

Q. So that in March last all the lights that had been there by which you had been running were there?

A. Yes, sir; they are lit.

By Mr Steele:

When did you go down? Were you the pilot that brought the Agnese up?

A. Yes, sir.

Q. When did you go down?

A. About five or six days before that, in a barque.

Q. On board of the barque?

A. Yes, sir.

Q. What channel did you go down?

A. I went down the Craighill Channel.

Q. Were you towed or did you sail down?

A. Towed down, sir.

Q. Whereabouts did you board the Agnese?

A. At the cape.

Q. About what time did you board her?

A. I got on board her, I think, between two and three o'clock, or three and four, I won't be certain which; it was in the afternoon.

Q. The day before?

522 Q. You were on board one night before?

A. Yes, sir.

Q. Whereabouts did you take the tug?

A. Somewhere about Annapolis.

Q. Off Annapolis?

A. Abreast of Annapolis.

Q. At that time what canvass had the ship on her?

A. Three topgallant-sails and her courses set and topsail.

Q. Did you have——

A. I had my courses set, foresail, mainsail, and——

Q. Not the jibs?

A. I had my jibs up. I run that down after I took the steam-tug.

Q. Who made the bargain with the tug for towing you up?

A. I made the bargain.

Q. What passed between you and the captain of the tug on the subject?

A. When he first spoke us he wanted sixty dollars to tow her up, but the captain said he would not give it, and I asked him what was the lowest he would tow her for. I think he said fifty dollars, I won't be positive about that, and I told him the captain said he would split the
difference. First I told him forty-five dollars he would give him to
523 tow the ship, and the captain said forty-eight dollars, and he said
then he would take her.

Q. Was there anything said on the subject of your keeping sail on her?

A. No, sir; there was nothing said then. Then I told him I would help him, if he took the ship, all I could.

Q. How was the wind at that time?

A. The wind was about south of south of east, I should judge.

Q. Where would the wind strike you, coming up?

A. It would be a little on the quarter, coming up.

Q. A little on the starboard quarter?

A. Yes, sir; in coming up as far as Sandy Point, then, it would be right aft.

Q. When she did take hold of you; by what length of hawser did she tow you?

A. I should judge from 45 to 50 fathoms we had.

Q. What sail did you leave on the ship when she first took hold of you?

A. I clewed my courses up, took my spanker in, clewed my topgallant-sails up, and then gave him my hawsers, and then afterwards furled the sails; north of Sandy Point I clewed my mizzen top-sail up and furled it.

Q. What time was that when you took your third top-sail off?

524 A. I should judge after nine o'clock. I could not tell exactly
what time. It was some time after he had taken hold.

Q. After that she had only two top-sails?

A. Yes, sir.

Q. Which were they?

A. The fore and main.

Q. Did the wind continue to blow the same?

A. Right aft, after we got around Sandy Point.

Q. What was your course after rounding Sandy Point?

A. Our course was about north by west.

Q. That would bring the wind nearly dead aft?

A. North until we struck the Craighill Channel.

Q. I am not talking about the ——; I am talking about what is the regular course of ——

A. The north, near by west; half west of the other.

Q. I ask you that, and the wind after passing Sandy Point——

A. Yes, sir.

Q. What kind of a ship is the Agnese?

A. She has been a steamship; she is a sharp flat ship.

Q. With her top-sails, only her two top-sails, without the aid of steam,
how fast do you think, with the wind as it was, would she run?

525 A. She would not go over three knots, if that, with these two
top-sails, because only one would do any good.

Q. Now at Sandy Point (there is no use of going below there) what, if any, lights had you set on the ship?
WITNESS. Lights on the ship?
COUNSEL. Yes, sir.
A. We had our side-lights out.
Q. What lights was the tug carrying?
A. She was carrying two lights.
Q. Vertical?
A. One above the other.
Q. Those are vertical lights?
A. Yes, sir.
Q. Were her lights burning?
A. They were.
Q. How many men, if any, were at the wheel of the ship?
WITNESS. At our ship?
COUNSEL. Yes, sir.
A. There was one man at the wheel; the mate was stationed there to look out for him to steer after the steam-tug.
Q. Are you sure there were not two a part of the time?
526 A. There might have been two. I think there was a third man behind the wheel. I do not know whether he had hold of it or not. I could not say positively.

By the court:

Q. Who was at the wheel?
A. One of the seamen.
Q. Do you know his name?
A. No, sir.
M'r BEEBE. We shall have him.
Q. You had never seen the ship before, or any of the parties?
A. No, sir.
Q. Where did you say the mate was?
A. At the wheel.
Q. Standing by the wheel?
A. Yes, sir.
Q. In the pilot-house?
A. No, sir; we have no pilot-house at the wheel.

By M'r Beebe:

Q. What part of the ship was the wheel?
A. Aft.
Q. About how far do you think from the taffrail?
A. I should think about twelve feet, more or less, forward of the taffrail.
Q. Was there any house over the wheel at all?
A. No, sir.
Q. Had the ship a poop-deck?
A. No, sir; flush fore and aft.
527 Was there anybody on the lookout?
A. Yes, sir.

By the court:

Q. Who was it?
A. One of the crew was forward.
Q. Where was he standing?
A. He was standing forward. I could not say exactly where.
Q. He was stationed where?

A. Forward.

Q. By the stem?

A. Yes, sir; forward of the foremast.

About what knot breeze should you think it was blowing at the time?

A. I should think it was about 8 or 9 knot breeze blowing, with everything set.

Q. With all sails set?

A. Yes, sir.

Q. What you may call a full, good, wholesale breeze?

A. Yes, sir.

Q. When you reached Sandy Point, where were you standing?

A. I was on the starboard side of the quarter aft, by the man at the wheel or forward of him.

Q. When you passed Sandy Point?

A. Yes, sir.

Q. Whose hawser was it that the tug used?

528 A. It was the ship's hawser.

Q. Out of which chock was it passed?

A. Out of the starboard chock.

Q. Had you any knowledge that the dredges were in Craighill Channel?

A. No; I had not.

Q. Was there anything said by you to the tug on the subject of what channel she was going to take you through?

A. I asked him when he took my hawser which channel he was going. He said the Craighill. I took it for granted it was all fair.

Q. In towing who controls that, you or the tug?

A. The tug generally controls it. We steered after the tug.

Q. How was the ship steered in reference to the tug's vertical lights? How did she keep them?

A. On her starboard bow.

Q. Upon the lights on the starboard?

A. Starboard. There was a man at the wheel who saw them on the starboard bow.

Q. Out of which chock was the hawser run?

A. The starboard chock.

Q. Whereabouts the ship was the hawser made fast?

A. It was made fast, I suppose 35 or 40 feet—I cannot say exactly—to a chock amidships.

529 Q. To what?

A. I think it was a chock amidships forward.

Q. Made fast to 'midships, passed through and forward the chock on the starboard bow, and was fast to the tug's stern?

A. Yes, sir; to his bitts.

Q. How fast, after the tug got hold of you and you had taken in your third top-sail—how fast do you think you were going over the ground?

A. I should not judge she was going over from 6 to 7 knots at the farthest. I judge about 6 or 7 knots.

Q. The speed being about doubled by reason of the tug's towing?

A. Yes, sir. I judge it was all of that.

Q. How long did you continue at this position on the quarter watching the course of the ship?

A. Until Captain Anderson blowed a whistle, and we had passed them and come to the Craighill Channel and hauled up.

Q. Had entered the Craighill Channel?

A. Yes, sir; and he blew one whistle, and I jumped aside and looked and saw one of the dredges.

Q. Then what did you do?

A. I went immediately forward of the mizzenmast, and got on top of the little house there is there and stood there and looked out.

530 Q. When you heard that whistle from the tug, did you observe any change of course of the tug?

A. Not at that time. I did not.

Q. Did you afterwards?

A. No; not until we came up to the second dredge.

Q. And you did not observe her port in passing the first dredge?

A. No, sir. When he blew his whistle he was nearly up to her—must have been.

Q. Up to which?

A. To the first dredge. I left them and went forward to the mizzenmast of this house there is there, and got on top of that.

Q. At that time and in passing that first dredge did you change the wheel any?

A. Yes, sir. I swung it starboard as soon as I saw the dredge.

Q. Did that open the tug's light on your starboard bow or had she gone off to port.

A. It had opened her light somewhat. As soon as he opened his light fairly I got on top of the house and sung out "Steady."

Q. When you sung out "Steady," whereabouts was the ship with reference to the dredge?

A. She was abreast here then at the time that steady was.

531 Q. How close to the dredge do you think you had got before you observed there was a dredge there?

A. I do not think we was more than the length of the ship; very little, if any. It was not more than a length and a half.

Q. Did you hear any hail from the lookout?

A. No, sir; I did not. Not at that time.

Q. You say when abreast of the first dredge you steadied your wheel?

A. Yes, sir.

Q. From that time on how did you keep it?

A. I could not say exactly how we kept the wheel, but we kept the steamboat's lights steadily on our starboard bow, as near as we could.

Q. Did you continue to stand on the house?

A. Yes, sir; I was on the house.

Q. What was the first thing that you observed, if anything, as to the tug?

A. He blew two whistles, and he kind of sheered off to port, and I sung out "Hard astarboard."

Q. At that time had you seen the second dredge?

A. I had not; not when he blew.

Q. He blew two whistles and sort of sheered to port?

A. Yes, sir.

532 Q. Was there a steady or rank sheer?

A. A rank sheer.

Q. That was your judgment?

A. Yes, sir. And I sung out "Hard astarboard."

Q. Had you at that time seen the second machine at all?

A. I had not seen it until he blew the whistles, until after I had starboarded my wheel,

Q. Did you first see it before or after you sung out hard astarboard?

A. I saw it afterwards.

Q. Was there any time between the time of your seeing this rank sheer, as you suppose, on the tug, and your singing out hard astarboard?

A. Any time between?

Q. Did any time elapse or one follow the other?

A. One followed the other. As soon as I saw him steer to port I then sung out, "Starboard your wheel," and then he blew his whistle and I sung out "Hard astarboard." Then I saw the dredge.

Q. First starboard so as to work the tug, then hard astarboard when you saw the dredge?

A. Yes, sir; I sung out hard astarboard.

Q. How near do you think you had got to the dredge when you sung out hard astarboard?

A. I think the tug-boat must have been nearly abreast of her. That is, her bow pretty nearly up to it.

533 Q. What did you do when you sung out hard astarboard?

A. I immediately came down off the house and ran aft to see which way the wheel was.

Q. To see if your orders were obeyed?

A. Yes, sir.

Q. How did you find the facts?

A. Wheel hard astarboard.

Q. Where did you remain from that time up to the collision?

A. By the time I got aft we struck the ship, hit the dredge before I got away from the wheel.

Q. Your helm being hard astarboard?

A. Yes, sir.

Q. Was there any time from the time that you steadied when you were opposite the first dredge—was there any time up to the time you gave the orders, starboard, hard a-starboard, when you at any time ported?

A. No, sir; not to my knowledge.

Q. Did you ever give the order to go to port?

A. No, sir.

Q. Was there ever any falling off of the ship's head to starboard up to the time when you gave the order "Starboard, hard astarboard," that you observed?

A. None I observed at all.

534 A. The ship steered very well, I thought.

Q. Up to the time you saw, as you suppose, the tug take this rank sheer off to port, had there been any change in the bearing of the tug's lights?

A. It would vary a little, but the motion of the wheel kept it near about the one thing.

Q. When you saw what you supposed to be this rank sheer of the tug, where did that sheer carry her light in reference to the ship?

A. The tug's lights?

Q. Yes.

A. Under our port bow.

Q, Carried her off to port?

A. Yes, sir.

Q. Did he carry it clean across your bow?

A. I suppose she was three points on our bow when the collision took place—when I saw her after the collision.

Mr. Wallace:

Q. How far did he say the sheer carried the tug?

Mr. BEEBE. He thinks up to the time the ship struck the dredge the tug had gone to about three points of’ their port bow.

A. From two to three points.

Q. It opened well on your port bow?

A. Yes, sir.

535 Q. How near do you think you passed to the first dredge?

A. About 35 or 40 feet.

Q. Will you state now what was done after the ship came in contact with the dredge?

A. The minute I found there was going to be a collision, I sang out "Clew up the top-sails." We clewed them up.

Q. Was that before you had actually struck?

A. No, sir; we had struck. I ran aft from the house to see if my wheel was right, and by the time I had got to the wheel we had struck. When I came forward I sang out "Clew the topsails immediately," and we clewed them up. Captain Anderson came around the starboard quarter and took a line out, and he got the line fast, and I hoisted my jib up and let go the anchor after I got clear of the dredge.

Q. What is the bearing of Craighill channel; how does it run?

A. Near north and south.

Q. At the time that the tug got hold of your quarter to tow away from the dredge, how do you think the ship was heading?

A. I should think the ship's head when he took hold to pull us was about northeast. Somewhere along about northeast the ship had

536 fallen—her quarter fallen to the westward.

Q. About how much?

A. Four or five points.

Q. And that was all?

A. Yes, sir.

Q. Do you think after that before you anchored, that she got any more eastward on her, about northeast?

WITNESS. The ship?

Q. Yes, sir.

A. When he got hold of me I hoisted the jib of the ship's head and played round more to the westward.

Q. Then you let your anchor go?

A. Yes, sir.

Q. You think when you let your anchor go, you were in or out of the channel?

A. We were in the channel—that is on the western side of the channel a little, I think?

Q. You were still in the channel, you think, when you let the anchor go?

A. Yes, sir.

Q. After that time, and after you let your anchor go, which way did your ship swing?

A. With her head to the southward of eastward.

Q. Which way did her stern swing, against or with the wind?

537 A. With the wind.

Q. Did she swing across the channel or westwardly?

A. With her stern up to the northward—westward.

Q. Her stern went round to the westward?

A. Went around—her stem went southward and westward. It swung around.

Q. Her stern was a little off to the westward?

A. Yes, sir.

Q. And she swung from that to the westward or northward?

A. Run about northwest.

Q. To westward of northward?

A. I judge about that.

Q. She did not swing to the east?

A. No, sir.

Q. About what length of hawser did you let go, or chain, when you anchored?

A. I could not say; they play that out below. I suppose 12 or 15 fathoms; enough to hold her. I don't know how much it was. It might have been 9 or 10 fathoms.

Q. Did you sing out to let go any particular length of chain?

A. No, sir.

A. At any rate whatever she did swing she swung to the westward?

538 A. Yes, sir.

Q. Did you see the dredge sinking?

A. I did.

Q. Did you notice how she was heading at the time she sunk?

WITNESS. The dredge?

Q. Yes, sir.

A. The dredge's head I think was something like north-northwest; that is, the shovel part; somewhere to the northward of westward, but I could not say exactly. I did not take particular notice. But she did swing around before she sunk.

Q. Was that before or after your ship was taken away from her that she swung?

A. I think she swung after we were taken away—after we anchored.

Q. How did the tug take you after that?

A. She got a line ahead of us again and came up on the bows and took our lines.

Q. You hoisted your anchor?

A. We hove the anchor up.

Q. And came on up?

A. Yes, sir.

Q. Where did you go then—where did you remain?

A. I remained on the starboard side of the tug until we got through the Craighill channel.

539 Q. How long do you think it was until the time that you got under way the second time up to the time that your ship was anchored?

A. I could not say. I remained on deck until we got up the Craighill channel, up to North Point. I felt sick and went into the room and pulled off my great-coat; felt like I was going to faint, and went to sleep.

Q. Had you been up all the night before?

A. Yes, sir.

Q. Had you had any sleep from the time you went on board of her up to this time?

A. No, sir; I had no sleep at all. I tried to get a nap and could not sleep.

Q. There was no one on board knew anything about the channel or the courses? The ship had never been there before to your knowledge?

A. No, sir.

Q. She was a strange ship in these waters?

A. Yes, sir, but the tug-boat was ahead, and, feeling badly, I just stepped into the house on deck and took off my coat and went to sleep.

That was above North Point. I was talking to one of the pilots in the barge after we got out of the Craighill channel into the Brewerton channel.

Q. Had you known the dredges were in the channel that night
540 would you have made any suggestion to the tug?

A. I should have objected to the ship coming through.

Q. Did you assume to control under such circumstances or only to suggest?

Q. Would you have absolutely ordered it or would you have suggested you had better take the other course?

A. Better take the ship around.

Q. What is the difference in the distance between the two channels?

A. I should judge about four miles—from 4 to five miles.

Q. Greater distance?

A. Yes, sir.

Q. Were you up and down in that channel while the dredges had been laying there?

A. Yes, sir.

Q. State what is the effect of the presence of those dredges on navigation there.

A. Those dredges, as a general thing, the heavy drafts, they are in our way a great deal.

Q. With heavy-draft vessels?

A. Yes, sir, but they used to slack their lines in.

By the court:

Is not the channel wide enough to pass a ship and let the dredge lay there?

541 A. There are lines that go abreast.

Q. What is the width of the channel?

A. The channel, they say, is 300 feet wide.

Q. If the dredge should let out her anchor, let it down, could not a vessel of any size pass her?

A. Yes, sir; but we are afraid to pass too close on account of the vessel taking a sheer, you see.

By M'r Beebe:

Q. There is danger of your vessel giving a sheer always?

A. Yes, sir.

By the court:

Q. Why is there danger of a vessel sheering?

A. All vessels won't steer steady.

Q. It is from some defect in the vessel, not caused by the dredge?

A. No, sir; I cannot say it is by the dredge.

M'r Beebe:

Is not it a fact, in passing an object in comparatively shallow water there is suction?

A. Yes, sir.

Q. Apt to draw to the object if we run near to it?

A. Yes, sir.

Q. How far off are you apt to feel that suction?

542 A. I should suppose from 18 to 20 feet. I would feel it more or less in passing.

The court:

You are perfectly safe in passing at 40 or 50 feet?

A. Yes, sir.

M'r Beebe:

What is the danger, if any, of the tug's taking such a night as it was that night? What is the danger of the tug slacking her hawser under such circumstances, taking it with the wind as it was then?

WITNESS. The danger?

Q. Yes, sir.

A. I did not see any.

Q. Suppose she slacked with the wind strong from the south, is the ship likely to swing?

A. No, sir; I don't think the ship would swing.

Q. Suppose she got a point either way *way*, and the hawser was slacked, would not it carry the stem either one way or the other?

A. Yes, sir, more or less, if she had to sheer.

Q. If an 8 or 9 knot breeze, would it not have the effect to carry her off out of the channel if she had no hawser to control her?

A. If no hawser to control her, not with the wind right aft.

Q. That is one of the dangers in a narrow channel, that she would go sheer?

A. In a narrow channel like that we have no room.

543 Q. I say that it is to' dangerous to undertake to slack and take the risk of swinging there?

A. Yes, sir.

Q. Do you know anything about the water on either side of what they call the excavated part of Craighill channel?

A. I don't.

Q. Have you ever carried vessels through the ground outside of the channel?

A. No, sir.

Q. You never did?

A. No, sir.

Q. It has been stated—we may as well take the bull by the horns—it has been stated that you were drunk on that night.

A. I was not.

Q. When had you drank?

A. I think it is about 5 o'clock we had our coffee, and we had a little wine-glass of gin.

Q. Had you drank anything after that?

A. No, sir; not up to the collision I had not.

Q. What time did you take your dinner?

A. 5 o'clock.

Q. Did you have some wine for your dinner?

A. No, sir.

Q. Had you had wine through the day?

544 A. No, sir.

Q. How do you account for your condition, then?

A. I was worried, and, with loss of rest, I felt sick at the stomach—kind of squeamish. I sat down on a bench and I was right in by the door, and I felt fainty & sleepy, and took off my big coat, laid down by the bed, and went to sleep.

Q. Are you a sound sleeper?

A. Tolerably. When I get to sleep I am hard to wake.

Q. Do you recollect being spoken to when the ship anchored?

A. No, sir.

Q. Do you remember when you did get up?

A. Yes, sir.

Q. When?

A. I got up just before daylight.

Q. What time do you suppose you reached the anchorage?

A. I should judge about one o'clock, or somewhere thereabouts. I do not know positively.

Q. Have you here in Baltimore a board of pilots?

A. Yes, sir.

Q. Who is president of the board?

A. M'r Perot.

545 Q. You have had a charge against you about this?

A. Yes, sir.

Q. Have you had any charge against you before?

A. Never, but one.

Q. In the whole 30 years?

A. That is all.

Q. You call yourself a competent pilot, then?

A. I do.

Q. Do you know Captain Shaw who testified here as a witness?

A. Yes, sir; I am acquainted with him.

Q. Did he use to be a pilot?

A. I was an apprentice in the same boat with Captain Shaw.

Q. Do you know any ship he was towing that came in contact with one of the dredges?

A. I think there was a steamer, the Nestorian. I could not say what steamer it was.

Q. Did you ever have a vessel before come in contact with these dredges?

M'r **Steele.** That is not evidence.

Witness. I have come in contact with them once.

M'r **Steele.** I do not think that is evidence. If you bring in another case, we will see who is to blame.

546 M'r **Beebe.** The only idea about it is this, brother Steele. If this was a sort of daily occurrance with your dredges, then it would seem to be a sort of notice to you that you were occupying rather a perilour position, and you had better be more careful.

M'r **Steele.** It depends upon whether they were careless or not. The evidence is not admissable, I suppose.

Q. As a matter of course, you are very familiar with steering a vessel?

A. Yes, sir.

Q. Where a ship steers by a rudder from her stern, what part of the ship is first acted upon?

A. Her stern undoubtedly.

Q. By a change of the rudder?

A. Yes, sir.

Q. Does that movement ever travel the length of the ship before it effects the stern?

A. I should judge it did.

Q. Is there any doubt about it?

A. No, sir; I do not think there is any doubt about it at all.

Q. If you take the length of a ship of this build and let the wheel extend amidships or "steady" wheel, how far do you think she
547 would run on either a hard a-port or hard a-starboard, commencing from her "steady," before her course would change a point?

A. I should think she would go two of her lengths.

Q. Would that, when it did come, would that be a gradual change, or a quick change?

A. A gradual change, a long ship like that.

Q. You take a ship running as she was running and let an obsticle come in contact with her on the bluff of her bow, not her stern, but on either side of her bow, what would be the effect?

A. I should think it would have the effect of altering her course. I would stop her.

Q. Would that make a sheer, a rank sheer, if she struck an object?

A. It is acccording to how fast——

Q. I suppose she strikes the bluff of her bow, would that make a quick sheer?

A. I cannot say it would make a quick sheer. It would sheer the ship.

Q. Would it not sheer it a great deal faster than her wheel?

A. Yes, sir; I think so.

Q. Is there any doubt about it?

A. No, sir; no doubt about it.

548 Q. If you touch an object on her stem, that will change her course a great deal quicker than on the side of her stem; but I mean on either bow. On either side it will change of course quicker than the wheel?

A. Yes, sir.

Q. Is there any doubt about it?

A. No, sir; I know there is not.

By the court:

Q. Who was at the helm of the ship that night?

A. I do not know the man.

Q. Did he speak English or Italian?

A. Italian.

Q. Did you give your orders to starboard the helm in English or Italian?

A. In English; they all know starboard and port; they understand that distinctly.

By M'r Steele:

I want to ask a question in reference to Swash channel. Doesn't it run across Brewerton channel to the Craighill channel, and the Craighill channel runs north and south?

A. Yes, sir; it crosses the lower portion of it.

Q. The Brewerton channel runs into the Craighill channel?

A. Yes, sir.

Q. Crosses it at this angle from the Brewerton to the Craighill.
549 Is not that the Swash channel from this side of the 7-foot knoll?

A. Yes, sir.

Q. Instead of going up the angle you go through the Swash, and where does that bring you?

A. It takes you into the lower part of the Craighill.

Q. That is, the lower part from where it hits Brewerton. How far from where it hits Brewerton does the Swash generally come in?

A. I think it is near about the same length. It is six or seven miles from the Brewerton channel, I should judge, across to where it hits the Craighill, so much further you know.

Q. One other question about this steering. You have been asked the effect of the rudder, as to whether or not its effect is not felt first at the stern; you say it is?

A. Yes, sir.

Q. If it is felt at the stern, and this is the vessel, and the stern is turned this much (indicating) in this direction, does it not turn the bow that much in that direction? (indicating.)

A. Turns the bow undoubtedly.

Q. Does not the bow turn at the same time with the stern?

A. The vessel don't twist.

550 M'r BEEBE. It would if it turned on a pivot. But the pivot now is the stern of the vessel.

M'r STEELE. But I understand that the stern of a vessel can turn, without the bow turning, unless she twists. If the vessel is as ordinary vessels are, solid, when her stern turns one way her bow turns the other.

A. It turns with the ship undoubtedly. It must, in that position; but then the bow of that ship does not move the stern. It slews the bow off all the time.

Q. The rudder operates on the stern?

A. Yes, sir.

Q. And by pushing the stern around that brings the head around?

A. Yes, sir.

Q. It takes more time to move the head. It moves at the same time?

By the court:

Q. And you starboarded your helm here? (indicating.)

A. Yes, sir.

Q. Just at the same time the stern moves this way, does not the bow move that way? (indicating.)

A. Yes, sir.

M'r STEELE. Mustn't it do it at the same time?

551 M'r BEEBE. It would if the ship turned that point, but it does not. When it begins to turn here, if your honor please, if it turns here in this way, (indicating,) the ship begins to turn there.

Q. Now you see this is the pivot upon which it turns, and not there, (indicating.) That is the thing, and therefore the stern turns until it begins to affect this, and then it throws it off; but if it was fastened right in the center, running down through the center of that ship, it turned on a pivot, then it would. There is a pivot on which it turns— the stern.

M'r STEELE. It takes the bow longer than the stern. That is another matter.

By M'r Steele:

Q. While you had this hawser over the starboard bow of the ship attached to the tug, and you kept the tug, as I understand you, on your starboard bow, so that you could see her, that is the way you steered her?

A. Yes, sir.

Q. In order to accomplish that, how was it necessary to keep your helm? Would it not be necessary to keep your helm a little aport in order to keep your vessel from being pulled to the port by having the line over your starboard bow?

A. No, sir.

552 Q. How did you keep your helm in following the tug?

A. Which way the ship sheers, of course, we keep her with it.

Q. If there is no sheering?

A. If the ship is following the tug-boat, and the wheel amidships, she would follow her.

Q. That is what I want to know; if the line goes over her starboard bow of the ship which is in tow, and she is pulled along by the tug, if the helm is kept midships will she follow the tug?

A. No, sir; she cannot do it. The helm must be moved one way or the other to meet the ship's sheer.

Q. Is not the tendency of the tug, having the hawser from your starboard bow, is not the tendency to pull the ship aport, so that it requires your helm to be put aport a little to get in your sheer and bearing to the starboard?

A. No, sir; I think not; pull her straight.

Q. Is it not the tendency?

A. I think not; I never saw it.

Q. If upon the starboard the line goes up, you kept your vessel in such a position that you could see the tug-boat's lights over the starboard bow?

A. Yes, sir.

553 Q. Then you must have kept her head inclining a little, didn't you, to the port of the course which the tug was going; and must not you keep the vessel's head a little that way in order to follow the tug when this line went over the starboard bow and was pulled by the tug?

553 A. There (indicating) is the ship's bow as you have got that vessel.

Q. And the ship would follow on straight in that way without your having to starboard your helm in order to get her a little aport?

A. We had a light on top with her sheer either way.

Q. I am not speaking of sheers. I am speaking of the effect of the pulling by the tug?

A. I didn't say there would be any difference pulling either way.

Q. Then but for the sheers according to your views, if the ship did not sheer, which sheers are occasioned by bad steering, not by anything pulling on the front, but by the effect of the ship herself, of her own motion; sheers are not occasioned by anything pulling?

A. Ships will take sheers.

Q. What do you mean by sheers? Do you mean sheers occasioned by the tugs pulling, or growing out of the action of the ship herself?

554 A. It may be growing out of the shoalness of the water or the pulling.

Q. Which do you speak of when you say that only in case the ship should sheer would it be necessary to put her helm either starboard or port? Do you mean sheers occasioned by the pulling of the tug, or sheers to which the ship was liable herself?

A. It is what the ship is liable herself with shallow water.

Q. That is what I supposed you meant. Now the effect of these sheers the ship might take. Throwing those out of view; supposing the ship——

M'r Beebe. You never steer right in the eye of the needle.

M'r Steele:

I agree with you fully; what I want to know is, it must be reason, and I think nautical reason too, if the ship is kept with the tug pulling her—that direction—the ship to be kept so as to have that tug on her starboard bow and you see the tug's lines on her starboard; can you do that without keeping your ship somewhat to the starboard, she is pulled there, and her head is in a different direction?

A. She is pulled right ahead. I cannot perceive there is any difference at all in the wheel of the ship.

Q. None at all?

A. No, sir.

Q. I only wanted to know. That is your view?

555 A. Yes, sir.

Q. If pulled midships right over her bows straight, how would it pull her then?

A. It would be about the same thing. It pulls directly ahead. I don't think it makes any difference with the line fast midships.

Q. But passed through the chock on the starboard bow; that is where the power is felt?

A. No response.

Q. Will you state again how long it was before you passed the first dredge that you saw—how long had you seen that dredge at the time you past her?

A. Well, I do not suppose it was over three minutes—from three to five minutes—a very short time.

Q. Then I understood you to say that you did not see the second dredge until after you had passed the first, and the tug had taken a sheer? You said then starboard, and then you looked and saw the dredge and said hard astarboard. Is that it?

A. As soon as Anderson blew his whistle, I sung out starboard my wheel.

Q. That was after you had passed the first dredge?

A. That was coming up to the second dredge. I saw the dredge, and sung out hard astarboard. First said starboard after the whistle, and I saw the dredge and sung out hard astarboard.

Q. You were then so close on to the dredge, I understood you
556 to say, you could not get away from the wheel before she struck?

A. I came to the house forward of the mizzenmast, aft, and by the time I got there, and before I got away, the wheel was in it.

Q. Before you got away from the wheel?

A. I came to see how my wheel was, to see whether starboard according to orders.

Q. Before you turned away from it you struck?

A. Yes, sir; the wheel was hard astarboard.

Q. That was after you had passed the first dredge, and when you heard the whistle you put it to starboard, and then put it hard astarboard?

A. Yes, sir.

By the court:

Did you see the dredge's lights?

A. No, sir; not until after the collision.

Q. You saw it then?

A. Yes, sir.

By M'r Beebe:

Q. Did you see it put up?

A. No, sir; it was up when I saw it.

By M'r Wallis:

Q. How far from the stem of that ship was the chock through which this hawser passed?

WITNESS. Our hawser?

COUNSEL. Yes, sir; the towing hawser. How far was the chock on the starboard bow?

A. From 30 to 40 feet from the stem.

557 Q. Just give us an idea. Do you think it was thirty or forty feet?

M'r Beebe:

Give it by measurement aud then there will not be any mistake about it

A. I cannot say exactly; it was some distance from the stem.

M'r Wallis:

What part of your vessel were when you approached the first dredge?

A. I was standing aft on the starboard, at the deck, close by the wheel.

Q. When you saw the first dredge?

A. Yes, sir.

Q. Had she not her lights up?

A. I saw her lights when I looked over the side. I was watching the steam-tug. I was not thinking about any dredges being in the river. I had passed down there an evening or two before that.

Q. You expect to see lights when the vessels are there, and when you see them you know they are there?

A. Yes, sir.

Q. And these dredges had up their lights?

A. The first one.

Q. And yet you did not see it?

A. I saw it when I saw the dredge. I did not see the dredge until the boat blew her whistle. The tug was then nearly abreast of the dredge and the dredge was on her starboard bow.

558 Q. Then, for the first time, you noticed her?

A. Yes, sir.

Q. How far off then?

A. I should judge about 100 yards.

Q. 250 or 300 feet?

A. I judge about the length of the ship when I saw the first dredge.

Q. This dredge had up her lights?

A. I saw the first dredge lights's when I saw her. I did not see her until nearly abreast of her.

Q. What prevented you from seeing her?

A. I was looking after the ship.

Q. But the tug was just in the same d'riction?

A. I can see nothing over the ship's bow at all; all I could see was the tug-boat's lights from aft.

Q. Are the tugs higher, any higher than the dredges?

A. Yes, sir.

Q. How much?

A. I cannot tell, but a good deal higher.

Q. Is not one of the dredges' light at the top of the beam they having for the purpose of raising the bucket?

A. Yes, sir. It was suspended to it, but not quite up to it.

Q. Isn't it as high as the tug's?

A. No, sir; I do not think it is.

Q. Not high enough to see?

A. No, sir.

559 Q. A man on the lookout could have seen it?

A. Yes, sir. If he saw it he did not report it.

Q. If you had been there you would have seen it?

A. Yes, sir.

Q. He did not report to you at all there was any light?

A. No, sir.

Q. Nor did he make any report when he came near the second dredge?

A. No, sir; the second dredge was the collision. He might have reported that. As soon as he sung out hard a starboard and I run aft to see how her wheel was, I came down off this house.

Q. The lookout made no report to you at all of the three dredges?

A. No, sir; not that I heard. He might have made a report, but I did not hear it.

Q. You noticed when the second dredge went down she had all her lights up?

A. I only saw the one.

Q. When you were taken in tow you told the captain of the tug that you would help him with your sails, did you not?

A. I told him I would help him all I could. It is customary for us to do it.

Q. Why did you take down so many of your sails; to reduce your speed?

560 A. So as to have my ship under control with the steamboat.

Q. Would not you have had her under your control if you had more sail on?

A. No, sir; I had the tug-boat ahead of me. I was steering for the tug-boat. I had the ship shorten her sail on purpose to keep after the tug-boat so as to keep in course.

Q. What prevented you from going the same course he went if you had the sails up and complete control of your vessel; with favored wind how would the keeping up of more sail have prevented you from having command of your vessel?

A. The ship was light in the first place, and I tried to avoid collission—exactly what we had.

Q. You had no reason to expect collission with anything?

A. I had no reason to expect it.

Q. You did not know those dredges were there?

A. No, sir; I was afraid of those small vessels in the river.

Q. Would you not have had more control of your vessel for the purpose of preventing collission if you had had more sails up, and a perfectly fair wind and smooth——?

A. I would have had more control of the vessel, undoubtedly.

561 Q. For the purpose of regulating her motions?

A. Yes, sir; more control; but she would go faster and go *go* into anything quicker.

Q. Of course she would, but at the same time you were going with the tug at seven or eights knots an hour?

A. Yes, sir.

Q. What prevented you from carrying sails, the sails of your ship, to make you go somewhere in that speed?

A. I wanted to have control of my ship, so that if I got the ship on anything it would be handy to clew up, or anything of that kind.

Q. You wanted to have control of that ship. There you were, going up a channel that you were perfectly familiar with, with favored wind, not a rough sea at all, and you told the captain *you told the captain* you would give him all the help you could with your lines, and yet, notwithstanding that, you took down your sails and reduced your speed from seven or eight knots an hour to about three.

A. It is a channel that I did not like nohow in the night, and I generally tried to avoid approaching it even when being towed out.

Q. Did you not tell the captain when he said he was going into
562 Craighill Channel, "All right" or "Go ahead?"

Q. You did not make any objection?

A. No, sir; because I did not think there was any obstructions in the channel.

Q. You spoke of the channel being generally one you did not like to go through during the night?

A. I did not like to with a sailing-ship.

Q. Then it was not because the dredges might possibly be there that you did not like to go through there, but because you did not like the channel?

A. It is a narrow channel, and with a sailing-ship I did not like going through it at night; I don't think it is any channel for a ship.

Q. Are not the United States regulation-lights there, so as to enable you to sail there without any difficulty?

A. We might have a fog or we might have a wind.

Q. You might have that in any channel.

A. You would have plenty of room in any other channel.

Q. That depends upon the size of the channel.

A. Any channel we use.

Q. You don't like to go through that channel at night?

A. No, sir.

563 Q. Are not you in the habit of going there all the time?

A. Not at night.

Q. Have never been there before?

A. Yes, sir; been towed through it.

Q. Often?

A. Not in the night.

Q. Never?

A. Yes, sir; once or twice.

Q. When the captain told you he was going through, you did not remonstrate with him on the subject, but you told him to go ahead.

A. Yes, sir; I thought it was all fair.

Q. You told him you would help him with all the sails you could?

A. Yes, sir; and I helped him with all that I thought it was prudent to have on the ship.

Q. Was what sails you had sufficient to give you control of your helm?

A. Hardly enough on that ship to give control of the helm.

Q. Why didn't you put up more sail then?

A. I was starting after the tug-boat. I wanted to have her under my control so, in case of any sheer, I could clew up.

Q. No matter about where you were starting. If you had had
564 more sail you would have had more control of your helm.

A. I would have had more control, I admit that.

Q. Why didn't you then put up sail enough to give you more control, if going at the rate of three and a half knots you did not have control?

A. I did not want to have more canvass on my ship; I claim to have, as I said before, complete control of her.

Q. You said you did not think you had sufficient control.

A. I had control. When I came up to the dredge I hadn't room.

Q. You hadn't room?

A. I hadn't room to go either side of her. I starboarded it after the boat. I didn't put the ship's wheel either way. I could not tell whether she would have gone to the eastward or not; but I starboarded her wheel as soon as I heard the blow of the whistle. I saw him make a sheer to port.

Q. How much?

A. I cannot say exactly.

A. A rank sheer, you say?

A. Yes, sir; he made considerable sheer.

Q. What did you do then?

A. I put my wheel starboard and came down aft of the house to see if my wheel was starboarded.

165 Q. What effect had this rank sheer to port?

A. I dont know of any.

Q. Here was this vessel coming with the tug, with her hawser fastened some 30 or 40 feet from her stem to starboard, and you were following her and she gave a sheer to port. Would not that have carried you to port?

A. It ought to, but a ship like that it could not have much impression upon.

Q. Have no impression upon her at all? It would put her to port.

A. Yes, sir.

Q. That seems to me to be clear.

A. Yes, sir.

By the court:

Q. If you had kept these tug's lights upon your starboard bow, your helm was on the starboard, and the tug passed the dredge without striking; how do you account for the ship striking?

A. I cannot account for it. The tug-boat can sheer much quicker than I can.

Q. Did the tug-boat sheer before she reached the dredge, or not?

A. When he came up close to the dredge he steered off undoubtedly.

Q. Before he reached it?

A. Just before he reached it.

566 Q. You kept your light on the starboard bow?

A. Yes, sir; I tried to starboard my wheel.

By M'r Wallis:

Q. His lights were on your starboard bow before you took the sheer?

A. Yes, sir.

The court:

Q. If you kept your wheel hard starboard, and had his lights upon your starboard bow, and when he sheered would it not necessarily the effect of his going to port have drawn you to port?

A. It would help in a measure.

Q. How do you account for striking the dredge?

A. I account in this way: He carried too far to the southward and eastward. We were too far to the southward and eastward of the dredge, coming up. When I first saw the dredge she was right ahead of her.

Q. You had passsed the first dredge forty feet to the west?

WITNESS. Your honor will recollect that second dredge was forty feet west.

The court:

I understand all about it. You passed the first dredge forty feet to the west.

A. I judge, about that.

Q. There was the second dredge in line with the first?

A. No, sir; forty feet to the westward.

567 M'r WALLIS. The testimony is both ways.

The court:

Q. How do you account, then, for the collision?

A. I cannot account for it all unless we struck this hawser on the dredges.

Q. I want to know what theory you have.

A. The ship would not go off after I had starboarded my wheel. I cannot say what was the cause of it. I did not feel the line.

Q. You did not feel any shock?

A. No, sir.

Q. Your ship would not follow the dredge?

A. She would not sheer as quick as the tug-boat; I cannot say for what.

M'r Wallis:

Did you feel any shock after you passed the first dredge?

A. I did not.

Q. You are perfectly certain that your indisposition that night did not prevent you from recollecting any of these facts?

A. Yes, sir,

Q. You were sick that night, you say?

A. Yes, sir.

M'r Steele:

Q. I understood you to say that you had the lights of the tug upon your starboard bow up to the time when these two whistles were given, and, as you think, the tug took the sheer to port.

568 A. Yes, sir.

Q. What was the direction of your vessel then; would she have struck or not that second dredge if she went on straightening her course?

A. Yes, sir; she would have struck her, because the dredge was ahead of us.

Q. At that time when it was so near? When you run down from the house to the wheel she struck; when you got to the wheel at that time you starboarded your helm, and she struck before the ship was affected by your putting your helm to starboard?

A. The ship might have gone off. I cannot say about that, but it did not go off enough to avoid the collision.

M'R STEELE. That is the way I understood it. I only wanted to be sure.

By M'r Beebe:

Q. Suppose that the ship is running up here and she strikes an object on her port bow, say like this line of the dredge, and that is a continuous pressure, will not that send her off quickly?

A. Oh, yes; quicker.

Q. Will not the apparent effect to your vessel be, the apparent effect to the vessel upon your side be, precisely the same as if the tug starboarded and went off to port?

569 A. Yes, sir.

Q. If you struck an object that sprung—a giving object, not a solid object like a pier or something of that kind or a rock—but suppose you struck an object that gave to the contact as you passed along, would you be likely to feel it at all on board your ship?

A. No, sir.

Q. You would see the effect if it was there, but you would not feel the blow?

A. No, sir.

Q. Did you know afterwards that your hawser was parted?

A. Yes, sir.

Q. Did you know when it was parted?

A. No, sir.

Q. Had you found it out up to the time the tug-boat took hold of you to tow you out?

A. No, sir.

M'r Steele:

If the stem felt the effect of your change of helm just as quick as your stern felt it, then your stem would be flung off on the first impulse of your starboard; but before your stem would feel the effect of that starboard the effect of this motion has got to travel to the stem?

A. Yes, sir.

Q. Where does the ship turn, amidships or at the stem?

570 A. Her stern turns up until the stem feels its influence.

Q. Until the stem feels its influence?

A. Yes, sir.

Q. Upon this point, upon the fact that you had been steadily following that tug's lights a little on the starboard bow until you saw what you supposed to be this rank sheer to port, have you any doubt that you had been following right in that line?

A. Right in that line.

Q. Have you seen the dredge at all—second dredge—until the tug had given these two whistles; you had given the order to starboard?

A. Yes, sir.

Q. And then she went off to port, and then it is not the first time you saw the dredge?

A. Yes, sir.

The COURT. We have gone all over that before.

M'r BEEBE. I do not know how far it might be, and I would rather have it clear.

M'r Steele:

You say you did not feel the ship strike any line?

A. No, sir; I did not.

Q. If your ship struck an object with sufficient force to turn her around, would you not feel it?

A. Well, sir, it is according to what she struck to turn her clear around. Undoubtedly we must feel it.

571 Q. To turn it off two points and a half could you help feeling it if it had that effect upon her?

A. I suppose it turned her two points and a half.

A. I don't know; we just feel the ropes or anything like that.

Q. Not if it had that much effect?

A. I doubt whether we could get that much effect on the rope.

Q. Could not you get that much effect—two points and a half to slew a ship like that?

A. You cannot slew a ship like that.

Q. Don't you feel it if you strike a rope so that the rope could turn around? She must meet opposition enough to turn her; and if that opposition is from a rope stretched tautly, is not it much?

A. It would depend according to which way she struck the rope whether you would feel it.

Q. Suppose there was a rope coming down from a vessel and another vessel runs over her, would it turn her this way?

A. I don't know which way it would turn her.

Q. If it is up high and comes down taut enough to turn her at all, wouldn't it turn her away from the high side?

A. If she ran over it on a perpendicular course this way?

Q. Yes, sir.

572 A. I do not think we would feel it at all.

Q. Did you feel any when you passed the first dredge?

A. No, sir.

Q. Was your course altered as you passed the first dredge?

A. No, sir; I starboarded it.

Q. Was your course altered by feeling any rope there?

A. Yes, sir.

By M'r Beebe:

Q. Suppose instead of running over it you ran against it on her port bow?

A. We would have felt it.

Q. Thrown her off?

A. Yes, sir.

Q. Any doubt about that?

A. No, sir.

By M'r Steele:

Q. How much did that vessel draw at her bow?

A. I am unable to say; they told me fourteen feet. I do not know what she drew forward; I could not say that. I never looked at her marks at all.

Q. Draw as much forward generally as they do aft?

A. Some do, and some draw more forward than aft. I cannot say whether it was so in her case or not.

573 Q. Sharp, flat ship?

A. Flat on the floor.

By M'r Wallis:

Q. I understood you to say you starboarded your helm when you passed the first dredge?

A. Yes, sir.

By M'r Beebe:

Q. And then "steadied?"

A. Yes, sir.

Q. In addition to singing out port or starboard, did you make any other sign with your hand?

A. Yes, sir; with my hands.

Q. Whichever way you wanted the ship to go?

A. Yes, sir.

At this point an almanac was introduced, and it was shown that the moon was in her third quarter, & that she set that morning at 2.17.

JUNE 24TH, 1874.

The court met pursuant to adjournment, at ten o'clock a. m. Examination of witnesses proceeded with.

Captain BODESTA recalled.

By M'r Beebe:

Ask the captain if he took this measurement yesterday on the ship.

A. Yes, sir.

574 Q. Ask him how far the starboard chock—the forward part of the starboard chock—is from the stem by measurement. What is the distance, not across but from the stem to the chock ?

A. Four feet.

Q. How wide is the ship from that chock across to the port chock at that point ?

A. Eight feet.

Q. How far is it from the stem to the bitts in the centre of the ship, to which the hawser was fast ?

A. Eighteen feet.

JULIUS GIULIOBOZZIO sworn.

By M'r Beebe:

How old are you ?

A. Thirty-four.

Q. Where were you born ?

A. Venice.

Q. How long have you been attached to the Agnese ?

A. Two years.

Q. In what capacity ?

A. Chief mate.

Q. Was he on deck or below on the night of the collision, when the ship was coming up ?

A. On deck, sir.

Q. Ask him whether the ship had her lights set and burning.

A. Yes, sir.

575 Q. Were the tug's lights that had her in tow—were they burning ?

A. Yes, sir; all right.

Q. As the ship towed after the tug, how did she keep the tug's lights ?

A. Always on the starboard bow.

Q. Ask him if he saw the first dredge.

A. Yes, sir; he saw when she was alongside.

Q. Was the ship alongside the dredge when he first saw it ?

A. Yes, sir; alongside.

Q. Had they anybody on the lookout ?

A. Yes, sir.

Q. How many men at the wheel ?

A. Two, sir.

Q. Has he ever been in the United States before ?

A. He was in New York once.

Q. In this same ship ?

A. No, sir.

Q. Was there anybody on the lookout forward ?

A. Yes, sir.

Q. When he came to this country did he speak any English ?

A. Very little or nuthing.

Q. Did he understand nautical terms, such as starboard and larboard ?

A. Yes, sir.

576 Q. I ask him again, did they have a man on the lookout ?

A. Yes, sir.

Q. Is that man in court ?

A. Yes, sir.

Q. At the time that they were abreast of the first dredge, did he see any light on the dredge?

A. He saw a light on the first dredge.

Q. How were they, strong or feeble lights?

A. Very feeble lights.

Q. How close does he think the ship passed to the first dredge?

A. He cannot judge; about ten or fifteen feet. He says it was dark.

Q. Had anything been reported by the man on the lookout before he saw the dredge?

A. He says the man reported.

Q. What did he report?

A. A black, floating object.

By the court:

What bow did he report it on?

A. A little on the starboard bow.

By M'r Beebe:

Where was the mate standing at that time when that report came?

A. He says he was walking by the wheel, watching the sailors at the wheel.

Q. Where was the pilot?

A. On the top of the house, on deck.

577 Q. Did he continue to stand by the wheel until the collision?

A. Yes, sir; always.

Q. From the time that they were abreast of the dredge—of the first dredge—up to the time that they came in contact with the second dredge, was their wheel ever put to port?

A. No, sir; only steady.

Q. Was he there by the wheel all the time?

A. Yes, sir; all the time.

Q. Ask him when they passed the first dredge, and before they got to the second, how they had the tug's lights; whether they had them the same as before.

A. Always on the starboard bow.

Q. Now ask him if he saw any change in the tug's lights before they came in contact with the dredge—the bearing of the tug's lights?

A. He says he saw a sudden sheer of the tug-boat.

Q. Which way?

A. The port side.

Q. Ask him whether that was a gradual or a sudden sheer?

A. A very sudden sheer.

Q. Up to that time had he seen the second dredge; up to the
578 time he saw the tug-boat take that sudden sheer off to port had
he seen the second dredge?

A. No, sir.

Q. Where was he standing at the time that he saw that sudden sheer of the tug?

A. He says he was walking one side by the wheel.

Q. What, if anything, was done with their wheel when that sheer came?

A. He says as soon as he discovered the sudden sheer of the tug-boat, he put his wheel hard astarboard.

Q. Ask him whether he had been instructed to follow the lights of the tug before?

A. Yes, sir; from the pilot.

Q. Ask him whether they got any order from anybody to put the wheel to starboard, and, if so, from whom?

A. He says, in the very same moment when he saw the tug-boat sheer, he said he put the wheel hard astarboard. At the same moment he received the order from the captain and pilot, both.

Q. Ask him if, the instant he saw the sheer, whether he started to make the change without any order, or whether they all came together?

A. Right away; as soon as he discovered it himself.

Q. What did he do as soon as he saw that sheer, personally?

579 A. He took hold of the wheel and helped the two men.

Q. To throw the wheel over?

A. Yes, sir.

Q. Did he see the dredge at any time before the ship struck it?

A. No, sir.

Q. Did he see the dredge after the ship had struck it?

A. Yes, sir; as soon as the ship struck her he came forward himself, and he saw it then.

Q. What did he see on the dredge?

A. He says he saw a few men on the dredge hoisting up a light.

Q. Saw them in the act of hoisting a light?

A. Yes, sir; he saw them hoisting up a light.

Q. Ask if they let the anchor go, and if either, which one.

A. The port anchor.

Q. Was that hanging over the bow?

A. Yes, sir.

Q. How much chain had they overhauled?

A. About 15 fathoms.

Q. How much did they pay outside the hawse-pipe?

A. Eight fathoms—about eight fathoms.

Q. Outside of the hawse-pipe?

580 A. Yes, sir; outside of the pipe.

Q. Now, at the time they let the anchor go, were they still in contact with the dredge, or had they been separated?

A. Separated then.

Q. What had taken them away from the dredge?

A. The tug-boat, he says, took the line and pulled her out.

Q. How long before they hoisted the anchor again?

A. About 15 minutes after—it was about 15 minutes.

Q. Before they hoisted their anchor again?

A. Yes, sir.

Q. What kind of wind had they that night?

A. South-southwest.

Q. About how many knot breeze?

A. A whole sail breeze? Q. Yes, sir.

Q. About how many knots?

A. About 7 knots.

Q. Well, now, what sail was there on the ship at the time they passed the first dredge?

A. The main and fore topsail.

Q. What did you say about 7 knots?

A. The wind was about 7-knot breeze.

By M'r Beebe:

What sail was there on the ship at the time when they passed the first dredge?

A. Two topsails; the main and fore topsails.

581 Q. Now, as the breeze was then, how fast would that carry the ship over the ground?

A. About 5½ or 3 knots.

Q. He has been to sea about how long?

A. He just took command of the vessel then. He was captain, too.

Q. How many years ago did he command her?

A. Two years. He was two years.

Q. How long has he been on the Agnese altogether, as mate, sailor, and captain?

A. Two years.

Q. How much of that time has he commanded her?

A. He never commanded the Agnese; he commanded another vessel.

Q. Never master of the Agnese?

A. No, sir.

Q. When did he last see the pilot on the house? How long after the collision?

A. He says he saw him until the vessel struck.

Q. Who gave the order to let the anchor go?

A. The pilot, sir.

Q. Who gave the order to hoist the anchor?

A. The pilot.

Q. Did he see the pilot go into the house, or did he see him after he was in the house?

A. He says he saw him when he was in.

Q. He didn't see him go in?

582 A. No, sir.

Q. Where was the ship when he saw the pilot in the house?

A. The vessel was starting again when he discovered the pilot was in the house.

Q. That is they had started to come up the bay?

A. Yes, sir.

Q. Was he asleep, apparently?

A. He says he does not know. He seen him lying on the sofa. He cannot say whether he was sleeping or not. He says he was always attending to the man at the wheel; hadn't so much time to take notice of the pilot.

Q. Ask him if he saw the end of their hawser after the collision.

A. Yes, sir.

Q. When was it hauled on board the ship?

A. He says he doesn't remember.

Q. When did he first notice the end of the hawser?

A. He says he cannot say because he was always aft.

Q. Has he seen it down to this day?

A. Yes, sir.

Q. When does he first remember having seen the end of the hawser by which he was being towed? Whether it was one hour or ten days, I don't care.

583 A. He says he saw her nearly 20 minutes afterwards, or half an hour afterwards.

Q. Was it after that it had parted? That is all I want to know.

A. Yes, sir.

By the court:

Ask him if he joined in the protest of the captain before the Italian consul?

M'r Wallis. It was before a notary.

Witness. Yes, sir.

Question by M'r Steele:

Will you ask him how far the ship passed from the first dredge when he went by it?

A. He doesn't know exactly, but he judges about 15 feet.

Q. Ask him if he kept, as I understood him, the tug upon her starboard bow as she was being towed up that channel?

A. Yes, sir; always on the starboard bow.

Q. Ask him if he knew how the helm of the ship was kept while she was thus keeping the tug on her starboard bow?

A. Amidships always, he says.

Q. Did I understand him to say that the hawser from the ship was broken?

A. Yes, sir; he noticed that the hawser was parted.

584 Q. Did he testify that he didn't see the dredge until the ship struck her?

A. No, sir. He never saw it before, he says.

Q. He didn't see it?

A. No, sir.

Q. After he struck the dredge he saw two men putting up a light, I understand you to say?

A. He saw one man hoisting up the light.

Q. He said two before?

A. He saw one man hoisting up a light after the ship struck.

Q. Might not that man have been taking it down instead of putting it up?

A. He says that he thinks that he was hoisting the light—that man—because he judged the first light got on board dredge was very feeble, and he hoisted another one.

M'r Wallis. He said, also, in answer to your honor's question, that he saw the light going up.

Interpretor. Yes, sir.

By the court:

Ask him if I understood him to say that after they had passed the first dredge the lookout upon the ship reported a dark object upon the starboard bow?

A. Yes, sir.

By M'r Wallis:

I understood him to say that at the time of the collision they had up only their main and fore topsails; ask him if that is so, when 585 he struck the machine?

A. He had two topsails clewed up.

Q. How long before the collision had he clewed them up?

A. As soon as he passed the first machine, the first dredge, he clewed up the sails.

Q. Ask him if his men were not in the act of clewing the topsails at the time the collision took place—a large portion of the men.

A. There were three or four men belonging to the crew occupied in doing something.

Q. I want to know whether a portion of the crew were not, as the captain said, engaged in clewing these topsails at the time the collision took place.

A. He says he cannot say; he does not remember.

Q. Ask him if they were clewing off from the deck.

A. Yes, sir.

Q. None of them aloft?

A. No, sir.

Q. All from the deck?

A. Yes, sir.

M'r BEEBE. Double topsails, he has them up.

M'r WALLIS. Yes, sir; I understand. Only when they furl them they went aloft. Of course I understand him to say his hawser parted from the tug. Ask him if he knows when it parted.

586 A. He cannot say, for he judges it was parted when he struck the machine.

By the COURT. Parted then, he thinks, before the collision?

INTERPRETER. No, sir; when the collision took place.

M'r BEEBE. Ask him if he knows anything about when it did part.

A. He cannot say; he was aft; he was attending the wheel.

M'r BEEBE. He found it parted when he went to haul it in.

INTERP*er*TER. Yes, sir.

M'r Beebe:

Ask him if he felt the concussion of the blow on the side of the ship.

A. Yes, sir.

Q. Then he felt the blow?

A. Yes, sir.

M'r Wallis:

Ask him if he remembers to have had a conversation with the captain of the tug when they got up to the port here.

A. He says he got a little conversation when he came on board, but does not remember.

Q. State whether he does not remember that the captain asked him if he had any lookout, and he said, "No; all hands were engaged in clewing the mizzen topsail."

A. He says he does not remember. It is not so, he says.

587 Q. How many men were on deck?

A. All hands.

Q. How many were engaged in looking out?

A. The lookout and two more men besides at the bow of the vessel.

Q. Ask him whether or not the pilot was drunk at this time—whether he did not know it.

A. He says he cannot tell whether he was drunk or not; he cannot tell what was the matter with the pilot.

Q. Ask him if he did not sign an attest—a protest—in which it was stated that the pilot was drunk.

A. He says he did, but he never thought he was drunk.

Q. He signed the protest to the effect that he was drunk?

A. He signed it, but he never noticed that he was drunk.

Q. What was the matter with him?

A. He says he cannot say. He says he was shaking, but he does not know whether he was drunk or not.

Q. Was not he shaking as drunken men usually shake?

A. He says he does not know; he never was drunk.

588 Q. Ask him whether or not he was moving about as drunken men usually do.

A. He says he cannot say positively, because he was engaged in attending to the men and looking at the repairing of a little damage done by the collision.

Q. Ask him if the pilot was not in command of the ship.

A. He says he had the command of the ship until the accident occurred, a little after, until the vessel started again for Baltimore.

Q. He received his orders from the pilot?

A. Yes, sir; all the orders he received from the pilot.

Q. I want to know again whether he received orders from the pilot. He said just now he could not tell, because he was engaged in looking after the damages, &c. But when he was in command and receiving orders from him, was not he able to notice whether he was drunk or sober?

A. No, sir; he says he did not observe it, if he was drunk.

Q. When did he observe anything peculiar, suspicious, or strange about him?

A. After the accident.

Q. Where did he go then?

589 A. He says that he seen that he was in the house, but he never saw him go in.

Q. He saw him in the house?

A. Saw him on the sofa.

Q. From the time of raising the anchor and coming up to Baltimore the pilot took no part whatever in managing the navigation of the vessel? He was in the house?

A. No, sir.

Q. He remained in the house?

A. Yes, sir.

Q. Upon the sofa, asleep?

A. He does not know if he was asleep or not; he seen him lying on the sofa.

Q. Did he endeavor to awake him?

A. No, sir.

Q. Ask him if he did not see an effort made to wake him?

A. No, sir; he cannot say. He was forward, tending to the following of the steamer. He did not notice anything about it.

Q. When you arrived at port, and the tug left the ship, was not the pilot too drunk to be awakened up to go ashore in the tug?

A. No, sir; he says he woke up himself.

Q. At what time?

A. Between four and five o'clock.

590 Q. Was not that some time after the tug had left them?

A. Yes, sir.

Q. When the tug left there they did not endeavor to awaken him to get him to go ashore in the tug, and could not awaken him?

A. No, sir; he says he does not remember. He says he was tired himself, and did not notice much about him.

By M'r Steele:

Will you ask him whether the ship had passed the first dredge when they begun to clew up the topsails?

A. As soon as he passed the first dredge he commenced to clew up the topsails?

Q. Who gave the order to do that?

A. The pilot, sir.

Q. Does he know why that order was given?

A. No, sir; he does not know why.

The COURT. Ask him how many men the crew consisted of?

M'r BEEBE. Twenty, the captain said yesterday, to verify it.

The INTERPRETER. Twenty.

Q. Ask him what watch he was in, and how many watches it was divided into?

A. Two watches.

Q. His watch and the captain's, I suppose?

A. Yes, sir.

591 Q. Ask him whose watch it was on deck that night the accident took place?

A. Both watched.

Q. Ask him how both watches could be on deck then?

A. He says that is the rule in his vessel in channels.

INTERPRETER. He says that his rule in his vessel in channels is to have all hands on deck.

M'r Beebe:

Q. When they approach a port they are all on deck?

A. That is the rule, unless some sickness.

M'r Beebe:

Ask him if it is not a habit, on approaching a port, for all hands to be on deck?

A. Yes, sir.

Q. Now ask him when, as a matter of fact, they had clewed up their mizzen topsail and furled it?

A. Before he saw the first dredge.

Q. How long before they saw the first dredge?

A. A little after the tug took hold of them.

Q. So that if he had told the captain that they were clewing up their mizzen topsail it would have been a lie, would it not? If he told the captain of the tug that when a ship struck the dredge they were clewing up their mizzen topsail, it would have been a lie? It would not

592 have been the truth?

A. No, sir.

The court:

Ask him what sails he was clewing up after he passed the first dredge?

A. He said the fore and main sails.

Q. Ask him if they had finished clewing up before the collision?

A. Yes, sir; they were all clewed up.

Q. Ask him if he had just done, or had done it some time?

A. Some moments before.

Q. Ask him if the man at the wheel had anything to do with clewing up the main topsails and fore topsails?

A. No, sir.

Q. Ask him if he still continued to walk by the wheel just as he has stated, while they were clewing up the main and fore topsails?

A. Yes, sir.

Q. He had nothing to do with it?

A. No, sir.

By the court:

Ask him why he was taking all the sails off the vessel at that moment?

A. He says the breeze had got so light it was not necessary to have as much sail.

Q. Ask him if that did not require more sail, if the breeze became so light?

593 A. No, sir; he had the steam-tug ahead.

By M'r Wallis:

Ask him if he had not her all the time from Annapolis?

A. Yes, sir.

By M'r Beebe:

Ask him if in approaching a port when they are in tow, and when they get to a narrow channel, getting near to the end of the voyage, they do not always take the sail off the ship?

A. Yes, sir.

By M'r Steele:

Ask him if they took all sail down fifteen miles from port; if that is their habit?

A. He says that depends upon the captain.

By M'r Beebe:

Ask him if they take a tug fifteen miles off, if they do not reduce their sail?

A. Yes, sir.

By M'r Steele:

Ask him if he does not recollect telling M'r Fobes the day after the collision, on board of his ship, that the pilot was so drunk the captain had to help him to the bunk or sofa to lie down?

A. He says he does remember that. He thinks it is impossible, because he could not say a word of English at that time when he came into port.

594 Q. Ask him if he does not recollect having a conversation with this gentleman, M'r Fobes, on the ship, and the captain, the day after the collision?

A. He says he remembers it, but never made any conversation with him. He asked him who he was.

Q. Ask him if he did not say the ship ought not to be responsible, because the pilot was so drunk he could not attend to his duties, and they had to help him to the sofa?

A. No, sir; he says he does not remember.

Captain JOSEPH VARDY sworn.

M'r Beebe:

Q. How old are you?

A. About fifty.

Q. Where do you reside?

A. In Washington street.

Q. In Baltimore?

A. Yes, sir.

Q. What is your occupation?

A. Pilot.

Q. Do you know the Craighill Channel?

A. Yes, sir; I have been passing up and down through it several times.

595 Q. Do you know what its condition was in March last? Do you know whether it had been finished and what width there was of it?

A. No, sir; I don't know much about the width of the channel, because I never see it measured and never was there when it was surveyed; have heard them say it was about 300 feet wide.

Q. Did you take any vessels through that channel in the month of March?

A. I have been pilot on vessels where the tug-boats have been towing them through, and I have run steamers through once or twice.

Q. Covering what time?

A. Pretty much from the time they commenced, when it was opened for passing through. I cannot tell you exactly what time it was, but it was while the dredges were digging there.

Q. Did you ever have a large ship taken through it in the night?

A. No, sir; I never was pilot for one to go through there in the night, a heavy ship, drawing a heavy draft of water to go through there night.

Q. With the dredges occupying the middle of the channel, take a ship 218 feet long, drawing 15 feet of water light, in ballast, and the dredges
occupying the middle of the channel by the ranges, by the lights,
596 would you consider it prudent to go through in the night with
those dredges there as they were last spring, not now, because
they are all clear, but with the dredges occupying the centre?

A. I consider there would be a great deal of danger in it.

Q. Now the main ship-channel, as it is called, you are perfectly familiar with that?

A. Yes, sir.

Q. Which of the two would you consider it the best seamanship to take a vessel through in the night, drawing 15 feet of water—a long, large ship like this one?

A. I should take the old channel for it, by all means.

Q. Have you yourself had trouble with the dredges about letting their lines go so as to accommodate you?

M'r STEELE. One moment. I do not think that is evidence.

M'r BEEBE. The object of the question is for the purpose of showing that is one of the troubles they have to encounter with their hawsers and lines occupy' the entire channel.

M'r BEEBE. I want to know how the fact is, whether you yourself, in your experience, have encountered difficulty about letting their lines
go?

597 M'r STEELE. That I object to. Ask him for the fact. You
can ask him how the lines were and the dredges were.

M'r BEEBE. We have got all that.

M'r STEELE. I object to the question in that form.

The COURT. I think he told you that in his opinion it would not be safe to take a vessel of that kind through that channel under these circumstances.

M'r Beebe:

Very well, take it in that shape. Taking those dredges lying there, with their lines out in the way it has been testified, whether you consider it prudent and safe to go through there?

A. I say so, fetching the ship through the night. I don't think it would be as safe as taking her around the other way, where there are no dredges.

Q. You run the risk of passing those dredges?

A. I say to take her round the other way, where there are no dredges, and take her round those channels where there are dredges, I did not consider it safe.

M'r Beebe:

Have you seen the Agnese at all?

A. No, sir.

Q. She is a flat-bottomed ship, with a sharp stem, built for a
598 steamer and then changed to a sailing-ship. When with all her
sails—and she carries topsails and gallant-sails and courses, jib and flying-jib, main topsails and fore and main sails—now, she will go, then, at her best from 7 to 8 knots; taking off her sails, except her two topsails, her fore and main topsails, how fast would you think, under the same circumstances, that ship would go through the water?

A. It would depend on the wind altogether.

Q. Take the wind at a given point. It is to carry her 7 or 8 knots, and that is her utmost speed with that wind, take off all her sails except those two topsails, how much would that drop her speed to?

A. I don't think she would go more than two or three knots, take all the sails off of her except the two topsails; then again depends on the wind; you cannot tell anything about the wind. If there was wind enough she would go more than that; if a sufficient wind you might drive her ten knots.

Q. I say, with all that sail on suppose she is going 7 or 8 knots, and you take all sail up but two topsails, how much would that reduce her speed to?

599 A. I should say about two knots in the hour; two or three
knots, taking all sail off except the two topsails.

Q. You take a vessel that steers by rudder at her stern, what part of the ship does the rudder first act on?

A. It acts on the whole hull if there is plenty of water where she is floating.

Q. Which will it first affect?

A. The stern first.

Q. Then does the motion have to travel far?

A. All through the whole ship.

Q. To the stem?

A. Yes, sir; I should think so.

Q. You take a ship of her length, 218 feet long, and let the wheel be amidships, and let her be going 7 or 8 knots through the water over the ground, and let the wheel be changed from amidships either way, either hard a-port or hard a-starboard, how far, on your judgment, would that ship run before she would change a point?

Now, I will answer that question as well as I can. There is a great deal of difference in ships; you will admit that.

Q. I say 218 feet long.

A. You might put the helm a-port or starboard and she would
600 float off probably before she would go the whole length of her
two points; with other ships put the helm a-port or starboard, and before she would change one point she would go three times her length. There is the difference in ships.

Q. This ship is a flat-bottomed ship with a sharp stem.

A. I should not suppose that ship, going 8 knots through the water, as you say—I suppose the time she would go the length of her she ought to change a point and a half.

Q. In her length?

A. I should think so; a point anyway. That depends upon the ship.

Q. That depends very much upon the character of each particular ship, does it not?

A. That may be all about the ship, and then still she would not steer well, either.

Q. Your judgment is, the run will depend very much upon the character of each particular ship that is to be steered?

A. Yes, sir.

Q. But is it not true that a long ship does not answer her helm as quick as a short one?

A. It takes longer to change her.

Q. Can you change the course of a ship 218 feet long as quick as a yacht?

601 A. No, sir; it takes more of a circle to do it.

Q. Longer time to do it?

A. Yes, sir; to slew her head as quick as that of a yacht.

Q. Where does a ship steer hardest, in shallow water or in deep water?

A. In shallow water.

Q. That is, a ship coming up this channel, would she steer harder than she would at sea?

A. I judge she would. I always found it so in going into shallow water with a ship.

Q. More likely to yaw about?

A. Yes, sir.

Q. Was there always in passing an object, the danger of suction, where you were in shallow water?

A. There is danger in the ship taking a yaw.

Q. Is there not more or less suction?

A. Yes, sir; there appears to be. I have not experienced that a great deal.

By M'r Steele:

Q. This vessel has been described to you as being very sharp; that means that she comes to a very sharp point at the stem. Vessels that are sharp in that way as you go down, do they become still narrower as you approach towards the bottom of the vessel?

A. Most generally they become sharper.

602 Q. I was going to ask you this, also: This vessel is described to be sharp and flat—a three-masted vessel. The sails have been described to you by Judge Beebe, and she has a good stiff breeze aft, south-southeast, which has been described; with no cargo on board; how much do you think she could make an hour with all the sails set? Would she make more than 7 or 8 miles?

A. Yes, sir; if the wind blew enough, a ship of that kind, I suppose, would make ten miles an hour, and perhaps more than that; it would depend on the wind altogether.

Q. You have never seen this vessel?

A. No, sir; not to my knowledge.

By M'r Wallis:

Q. You say that you would consider it more prudent to have gone through another channel than to have gone through that channel that night, a bright moonlight night, bright as day; would that have any effect at all upon them?

A. No, sir; not if left to me and I had my say about it. If all the responsibility were thrown upon me alone, I should have taken the other route to go, for the safety of the thing.

603 Q. When you were engaging a tug for the purpose of towing you up, would you not have told the captain to take you up the other channel?

A. Yes, sir. If the captain had told me to look out for the tugboat, I certainly should have done so.

Q. If you had a strange ship that came into this harbor for the first time, & whose officers knew nothing at all about the bay, and you were engaged at the capes to go on board and pilot her, and you made a contract to take her up to Baltimore, would not yourself have felt it your duty, if you thought it more prudent to run through that channel, to tell the captain of the tug to take you by the way of the other channel ?

A. It is very seldom that I ever have that privilege.

Q. If you had the privilege would you not have exercised it ?

A. If I had I would have given him my advice to go the other way.

Q. Suppose he had said that he was going to take you through the Craighill channel, and you said " All right ?"

A. I could not do anything more than object to it, as I have done before.

Q. Suppose you did not object ?

A. Well, it would not change my judgment upon the subject.

604 Q. You have never gone up and down during the night ?

A. Oh, yes, sir.

Q. With vessels of heavy draft ?

A. No, sir.

Q. What sort of draft ?

A. I suppose 12 or 13 feet. I do not recollect of going any of any more draft.

Q. Do you not think you have gone with vessels drawing 14 feet of water ?

A. What I call heavy draft is 18½ feet of water. I supposed that was what you were speaking about.

Q. No; 14 and 14 feet 6 inches.

M'r Beebe. She was a large ship in ballast.

The Witness. I call 12 & 14 feet a light draft, going through the channel.

Q. Would you have considered it safe to bring a vessel 14 feet 6 inches up through there ?

A. No, sir; I do not consider it safe with those dredges in there, if you ask my opinion.

Q. I thought you confined yourself to vessels of heavy draft. I am speaking of vessels which you say are light draft, namely, those drawing 14 feet 6 inches.

A. I say so.

Q. Would you have taken her up ?

605 A. No, sir; if I had had my say, and it was a dark night, I never would have sailed her through, nor would I have taken a tug-boat to tow me through unless it was somebody that I was confident knew something about towing her through, and he would have to be a careful man to do it, too.

By M'r Bebee:

Q. The channel is safer without the dredges in there than with them ?

A. Of course.

Q. If you did not know there were any dredges in there would that change your judgment ?

A. I would rather the dredges were out than in.

Q. As a matter of course that adds to the perplexities of that channel ?

A. Yes, sir. That is the greatest objection I would have to it.

Q. After you put yourself into the hands of the tug to tow you up, do you take any control of the movements of the tug, or direct as to where she shall go?

A. No, sir; for I now——

Q. I am talking about that simple question; please answer that. Does not the tug then take charge of you?

606 A. She has always lately taken charge of the vessel in this way. That is all the charge I have ever had of a vessel, say to keep the vessel so that she will steer with the tug-boat. They have sometimes asked me to make sail and help them along, and that I have done.

Q. But do you direct the running of the tug in any way from that time?

A. No, sir; I have no control at 40 or 50 fathoms ahead of me.

By the court:

Q. Is not a tug that is employed by a ship to take her up always under the command of the ship? Was it ever heard of that a tug could be in command of the ship? If you take a tug to tow you up, is not the tug at your service, and your servant, and at your bidding?

A. No, sir; she is not. She takes her hawser many times and goes ahead & I have nothing at all to say.

Q. Cannot you command him to stop when you want to?

A. No, sir.

Q. Cannot you direct which way to go?

A. If I had that right to do so I have never known it, and I would like to know it. There is only one thing, I have said before, I

607 would allow a ship to come into collision or shoal water, I would take it on myself to put the helm one way or the other to stop it, or let go a hawser, but to say that I have got direct authority to go forward and stop him after the captain employs him to tow the ship and let go a hawser and say he shan't tow me against the captain's orders, is something I don't know much about.

By M'r Bebee:

In other words, you wouldn't undertake to control the course of the tug?

A. No, sir; cannot do it.

Q. If you had control of the tug you would go on board the tug?

A. Yes, sir.

By M'r Wallis:

Q. What sort of a control would you exercise over the motions of the ship if you happened to be on board and there was wind enough to control her own motions perfectly, what would you do on board the ship?

A. Just as I said before, I would steer after the tug; have the ship steer after the tug at least. That is the general order, to keep the vessel after the tug, steer after her going to the dock and coming up, too.

Q. If you see she is going to run into something you don't feel bound to follow her?

608 A. As I said before, I would not do it if I could help it.

Q. Suppose you had the entire helm of that vessel?

A. I suppose I might, if the tug-boat was going to jerk me around and run into something.

Q. If she is towing and you sailing after her do you mean to say that you cannot regulate your own motions?

A. I cannot say that.

Q. You can regulate your own motions; you can regulate the steering after the tug-boat enough to keep her on the starboard or the larboard or port, just as you please?

A. Yes, sir.

By M'r Bebee:

Q. And that is exactly what you do do?

A. Yes, sir.

Q. Your object is to follow the tug?

A. Yes, sir.

Q. That is your instructions to the men at the wheel?

A. That is generally what the captain says, but whether he means for me to follow over dredges, shoals, or anything of that kind, I do not know.

609 Q. You may, of course; you would consider it your duty if you were running into anything, to stop it, wouldn't you?

A. Yes, sir.

Q. Did you know Captain Anderson?

A. Yes, sir.

Q. Has Captain Anderson any reputation as a navigator of a tug in the port here?

A. No, sir; not that I know of, he isn't; nothing more than I have seen him towing vessels; that is all.

Q. You speak of your own knowledge; you know nothing about his reputation?

A. No, sir.

By M'r Wallis:

Q. Do you know anything about his abilities?

WITNESS. As for towing?

Q. Yes.

A. Nothing more than I have seen him towing vessels; think he has towed me once, towed me very carelessly. I know it, and he knows it.

JOANA MILOBECK, sworn. (Same interpreter.)

M'r Beebe:

Q. How old are you?

A. 32.

Q. Where were you born?

610 A. In Austria, on the Adriatic.

Q. Ask him what his business is.

A. Sailor.

Q. Ask him how long he has followed the water.

A. 14 years.

Q. Able seaman?

A. Yes, sir.

Q. Belongs to the Agnese?

A. Yes, sir.

Q. How long?

A. Two years.

Q. Was he on board the night she came into Baltimore?

A. Yes, sir.

Q. On board at the time of the collision of the dredge?

A. Yes, sir.

Q. What duty was he performing at the time of the collision?

A. Lookout forward.

Q. When had he gone on the lookout?

A. 8 o'clock in the evening.

Q. Ask him about what time this collision took place.

A. About half past 9 to 10 o'clock.

Q. Ask him if all hands were on deck.

A. Yes, sir.

611 Q. Keeping a good lookout?

A. Yes, sir.

Q. Ask him if the ship was steered after the tug, how did they keep the tug's lights.

A. He says he was steering after the tug-boat, and the lights were always a little on the starboard bow.

Q. Did he see the first dredge that was passed?

A. Yes, sir.

Q. Was he then on the lookout?

A. Yes, sir.

Q. How close was the ship to the dredge before he saw it?

A. About 25 or 30 fathoms, when he saw the first dredge.

Q. Ask him if he had noticed whether the tug changed her course to pass that first dredge.

A. No, sir.

Q. Ask him if he saw the dredge—whether he saw any lights on it.

A. On the first dredge, he says he saw a very feeble light.

Q. Ask him if he saw the dredge come in sight.

A. Yes, sir.

Q. What did he do when he saw it?

A. He says he saw that something black was forward.

612 Q. Did he report it; did he say anything?

A. Yes, sir; he says he reported something black.

Q. Where?

A. Forward. He says it was very close to him forward.

Q. How close did the ship pass to the first dredge?

A. About 3 fathoms.

Q. 18 to 20 feet?

A. Yes, sir.

Q. After passing the first dredge, ask him if they had the tug's lights in the same way, a little over the starboard bow.

A. Yes, sir; always on the same side.

Q. Did he see the second dredge before the ship struck it?

A. He says that he saw the same——

Q. Did he see it before the ship struck it?

A. He did.

The court:

How long before?

A. He says the moment when the tug-boat took the sheer, he saw the dredge-machine then.

The court:

He saw the second dredge just after the tug-boat made the sheer?

A. Yes, sir.

M'r Beebe:

Q. Now, ask him if he saw any change in the bearings of the
613 tug's lights, or any change on the part of the tug.

A. Yes, sir; he did.

Q. Ask him whether this was a sudden sheer, a quick sheer, or a gradual sheer.

A. Very sudden.

Q. Was there any time from the time they past the first dredge up to the time that they came in contact with the second dredge that their ship went off to starboard, if the head of their ship fell off to starboard, as near as he can judge?

A. No, sir.

Q. Up to the time that he saw the sudden sheer to port of the tug, had the ship followed the tug in about the same time of which they have spoken?

A. Yes, sir.

Q. How far off was this dredge when he first saw it, when the tug gave this sheer?

A. He says she was very close.

Q. Her length?

A. About 35 fathoms.

Q. When he saw the dredge?

A. Yes, sir.

Q. Was there any light on the dredge that he could see?

A. No, sir; he only saw a black object; he did not see any lights.

614 Q. Where was he standing at the time he saw this dredge?

A. In the forecastle.

Q. How near the stem?

A. About ten feet, he says, from the stem.

Q. Is the forecastle gallant or under deck?

A. On deck.

Q. Is it aflush, or do they have to go up a little to get on the forecastle?

A. No, sir; it is all on deck.

Q. Then the forecastle was below the main deck?

A. Yes, sir.

Q. Did he continue standing forward until the collision?

A. Yes, sir; always.

Q. Did he know that their hawser parted?

A. No, sir.

Q. He did not know when it parted, but did he know afterwards it had parted?

A. Yes, sir; he knows it was parted.

Q. When did he first know that the hawser had parted?

A. He says when they called him in.

Q. How long was that after the collision?

A. About 15 minutes or a quarter of an hour.

Q. Could he see this by the end it had parted?

A. Yes, sir.

615 Q. He has followed the sea, he says, 14 years?

A. Yes, sir.

Q. Ask him if he attended to any other duty after he went on the lookout, except to keep a lookout.

A. Only to his duty to a lookout.

The court:

Ask him when he first saw the second dredge; whether it was over his port bow or over his starboard bow?

A. The starboard bow.

Q. Did he see any light afterwards on the dredge?

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A. He says after she struck he saw a light there.

By M'r Beebe:

What was being done with the light, if anything, when he saw it?

A. He says he could not see anything before he struck her. He says he saw a light after they had struck.

Q. Was that light stationary on the vessel, or was it being hoisted, or what?

A. He says he saw a man hoisting a light.

Q. When, from the time that he first saw the dredge, when the ship was 35 fathoms off as he estimates it, from that time did it swing either way, or did she keep directly on until she struck the dredge?

A. He says he was steering always after the steam-tug.

Q. I do not mean that; and if he will listen to my question
616 then we cannot make any mistake. There was a time when he
saw the second dredge when he was 35 fathoms off, as he estimates. Now, I want to know, from that time until the time, at that time the tug-boat had gone off on this sudden sheer, and the dredge was open to him. I want to know from that time until the ship struck the dredge whether there was any change in the ship's movements.

A. No, sir.

Q. She went straight on?

A. Yes, sir.

By M'r Steele:

Ask him if he knows how deep the ship is, she has been stated to be 38 feet deep, I think.

A. He does not know exactly. He thinks about 22 feet. He never measured.

Q. Ask him how high above the water he was when standing on the forecastle where he kept his lookout.

A. About 16 feet above the water.

Q. Ask him whether the forecastle deck, on which he stood, was higher than the deck of the ship.

A. No, sir; not higher than the deck.

Q. He stood on the deck?

A. Yes, sir.

Q. And the point where he stood he thinks was about 15 feet above the water?

617 A. Yes, sir.

Q. Has the ship bulwarks?

A. No, sir; it has not bulwarks. It has a kind *on* net all round the deck.

Q. Flat deck, with a net, and with a forecastle not raised?

A. Yes, sir.

By M'r Beebe:

There are no bulwarks above the main-deck?

A. No, sir.

Q. He says he saw no light on the dredge until he struck?

A. No, sir; he did not see any light.

Q. Where was this light that he saw after he struck—forward or aft?

A. Aft.

Q. What were they hoisting it on?

A. He thinks it was hoisted up with a line—a small line.

Q. What was the light placed on?

A. He thinks it was a kind of little mast; hoisting him up there.

Q. Ask how long it was after they struck that he saw them arranging this light.

A. About 5 minutes afterwards, he says.

Q. Did he say it was at the stern that they were arranging this light?

618 A. Yes, sir; at the stern.

Q. When you saw this light hoisted, as you say, over her, was the ship then in contact with the dredge?

A. She was in contact with the dredge.

Q. Did he see the dredge sink?

A. Yes, sir.

Q. How long was it after he saw that light hoisted before he saw the dredge sink?

A. About a quarter of an hour afterwards.

VIDI ACHILLE sworn and examined.

By M'r Beebe:

How old are you?

A. Thirty-two.

Q. Where were you born?

A. Ancona.

Q. Ask him if he has ever been in the United States before.

A. No, sir.

Q. What vessel is he attached to?

A. The Agnese.

Q. How long has he been attached to the Agnese?

A. Five months.

Q. What is he on board?

A. Sailor.

Q. Able seaman?

A. Yes, sir.

619 Q. How long has he followed the sea?

A. About nine months.

Q. Was he on board the ship on the night of this collision?

A. Yes, sir.

Q. Where was he at the time of the collision?

A. At the wheel.

Q. When did he go there?

A. At nine o'clock.

Q. Who was at the wheel with him?

A. Another man.

Q. Were both men at the wheel all the time from the time he went?

A. Yes, sir.

Q. How was the ship? Did the ship have her lights set?

A. Yes, sir.

Q. The tug hers?

A. Yes, sir.

Q. Burning?

A. Yes, sir.

Q. Ask him how the ship was steered—how the tug-lights bore from the ship after she was steered.

A. Right on their starboard bow.

Q. If they received any instruction about keeping her there?

A. Yes, sir.

620 Q. Ask him if he knows the meaning of the word "port" in English, when he hears it.

A. Yes, sir.

Q. Starboard?

A. Yes, sir.

Q. Steady?

A. Yes, sir.

Q. Ask him where the pilot was while they were steering.

A. On the top of the house on deck.

Q. Ask him if he heard the pilot sing out—give orders.

A. Yes, sir.

Q. Who was standing by the wheel, or near the wheel, or near them?

A. Yes, sir.

Q. Who?

A. The second captain; the mate.

Q. Did you see the first dredge when the ship passed it?

A. He says he hardly saw her because he was at the wheel, but he saw her when she was abreast of the ship.

Q. How near does he think the ship passed to her?

A. About twenty feet.

Q. Did he see any light on her?

A. He saw a feeble light.

621 Q. After the ship passed did he still see the tug's lights in the same way when she was passed the first dredge?

A. Yes, sir.

Q. Ask him after that and before the collision whether he saw any change in the tug's lights, or in the tug.

A. No, sir.

Q. State whether he saw before they struck the first dredge, whether he saw the tug's lights change any.

A. No, sir; he says he could not see anything from the wheel.

Q. Was there any change of the wheel of the ship before she struck the dredge?

A. Yes. The change was to put the helm hard astarboard.

Q. What made them put the helm hard astarboard?

A. Because he says he received orders to do that.

Q. Did they see any change in the tug at that time so as to make it necessary—the tug's lights?

A. No, sir.

Q. Did he see the tug's lights at all?

A. No, sir; he says he could see the lights sometimes.

622 Q. How does he know the lights changed any from being a little over the starboard bow before the ship struck? Whether they changed either way; and, if so, which?

A. He says he didn't notice.

Q. When the order came to hard starboard did they hard starboard?

A. Yes.

Q. Who gave that order?

A. Got it from the mate and the captain.

Q. Did he hear the pilot say anything?

A. Yes, sir.

Q. Did he hear the captain?

A. Yes, sir.

Q. What did they all say?

A. Hard astarboard.

Q. Ask him if there was any time lost when the order came putting the wheel hard astarboard.

A. No, sir.

Q. Who helped them to put the wheel over?

A. The mate, he says, he helped him.

Q. When the ship hit the dredge could he feel the blow?

A. Yes, sir.

Q. What became of him—what did he do after the ship struck?

623 A. He says "make fast to the wheel," and went forward to the wheel to see what it was.

Q. Did he run forward?

A. Yes, sir.

Q. When he got forward did he see any light on the dredge?

A. He says one of the men on the dredge had a light.

Q. What became of it?

A. He hoisted it up.

Q. Did he see him hoist it up?

A. Yes, sir.

Capt. **John H. Cooper** sworn and examined.

By M'r Marshall:

Q. You are president of the board of pilots?

A. Yes, sir.

Q. How long have you been in that position?

A. About 10 or 12 years.

Q. You are an old pilot?

A. Yes, sir.

Q. Are you acquainted with the usages of the port of Baltimore with reference to bringing vessels up the river?

A. I am.

Q. Will you state to the court whether or not it is customary or usual for vessels coming up from the bay to employ tugs to bring them into Baltimore.

624 A. The majority of them employ tugs; vessels of any draft. Since those new artificial channels they most all employ tugs to bring them into Baltimore; vessels of any draft.

Q. That is the usage of the port?

A. Yes, sir; unless it is a small-draft vessel.

Q. A vessel drawing 14 feet 6 inches?

A. They generally employ tugs, very rarely do not, unless they have a fair wind. The common usage of the port is to tow altogether—nearly.

Q. With reference to the day or night, is it more customary to employ tugs at night or in the day?

A. Tugs often tow vessels up in the night.

Q. You have had vessels towed up yourself?

A. No, sir; they haven't towed me up in any vessels lately, but I have been out in a good many steamers, but no sailing-vessels.

Q. Do you know whether these tugs profess to be acquainted with the channels and harbor?

A. They do.

Q. They offer themselves for the purpose of towing vessels up the harbor?

A. They engaged to tow for that purpose, and have wholer soul charges, as we understand it in the port of Baltimore.

Q. They profess to be acquainted with the channels of the 625 river?

A. They are acquainted with the channels of the river.

Q. You know this Captain Anderson?

A. I do.

Q. Has he been employed a long time as captain of the tug here, coming into Baltimore bringing vessels up?

A. Yes, sir.

Q. Have you known him as such?

A. Yes, sir; I have often seen him towing vessels in and out of port.

Q. According to the usage of the port of Baltimore in going out or coming in with the tug, what control has the tug over the movement of the vessel?

A. She has all control of the vessel; whole, sole control. The order is given to steer after the tug, and if that is not obeyed, why the captain——

Q. The captain takes control by the usage of this port?

A. That is the custom of our port.

The court:

Q. The rule is to steer after the tug?

A. Yes, sir.

M'r Marshall:

Q. The tug taking the direction of the course, and the vessel steering after the tug?

626 A. That is the custom of the port, only in case where the captain will put his vessel alongside. Then the pilot has charge. When he takes his hawser and goes ahead the vessel is under the control of the tug. As soon as she takes the hawser ahead the tug has the so*ul* control; but if the captain wants to give up the charge, and the captain of the tug-boat wants to relinquish the responsibility of the vessel, he puts the vessel alongside and then the pilot takes charge.

Q. Do you know anything about the safety of navigating Craighill Channel; where the dangers are in there?

A. I am quite familiar with the channel.

Q. State to the court what effect the presence of the dredges in the channel have upon the safety of the navigation.

A. The navigation of the Craighill Channel without dredges is very dangerous, and with dredges—with those dredges we have had here, those clam-shell diggers—it has been almost impossible to get by them. For this reason I have been down assisting in piloting through this channel. We would blow the whistle when pretty near those *those* dredges, and they very seldom paid any attention to it. We would get somewhere nearly abeam of the dredge before they would slack the lines. It
627 it is impossible to pass over those lines with large steamers.

By the court:

Q. Do you know the *dep*th of the channel?

A. I judge it is 200 feet at this present season,

Q. What is the depth of the water on the west side of it?

A. It is lumpy with all those oyster lumps. I suppose some of them are two or three hundred yards apart, and some further. There are lumps on both sides of this channel.

Q. Is there not on the west side of the channel fourteen feet of water for five or six hundred feet out?

A. At intervals there are, but it is dangerous to go outside of the line of the channel; dangerous for any vessel drawing over twelve feet of water. The channel is not perfected yet. We often have jumped over these lumps in the middle of the channel. It is not safe in that channel for a vessel drawing over twelve feet outside of these lines or outside of where the dredges dig.

By M'r Marshall:

Q. Coming up from Annapolis, if you had got off Annapolis after dark, and had known that the dredges were in Craighill Channel, and you had a ship drawing fourteen feet six inches, would you have come up the Craighill Channel?

628 A. It is not customary for pilots to sail ships through that channel at night.
The Craighill Channel is not a proper channel for vessels without a tug-boat to enter, and for the reason that there is not room enough in which to handle the ship; that is, without dredges. With the dredges, the place is barricaded out. They pay no attention to anybody but themselves. They are after the last pound of mud. That is what I have found in my experience with them.

By M'r Steele:

Q. If the channel is two hundred feet wide and the dredge is lying outside of that two hundred feet, going to excavate and make the channel, that two hundred feet is enough for a vessel to pass through?

WITNESS. Eastward or westward of the channel, do you mean?

Q. The buoys run to the east line of the channel where it has been excavated. If it has been excavated two hundred feet, for instance?

WITNESS. The dredge lying in *in* the centre of the channel?

COUNSEL. The dredge lies just outside of that two hundred feet, making two hundred feet clear between the dredge and the buoys.

A. Then she would be out of the channel if she had not those
629 long lines that they run out. They run these lines clear across
the channel and place enormous posts up there for buoys; a great mass, and you cannot tell them from the other buoys.

Q. You say that the dredges sometimes do not slack their lines until the vessels get up almost to them. Suppose they were to drop them as soon as you came up in sight and slack them, might not the wind or the current make them taut again, and might not the dredge be made to fall back by the tautening of the rope again? Suppose they slacken it and she again falls back, would not that make the rope taut?

A. They never took that trouble with me. They wait until I get jammed up.

Q. You speak of the lines going across the channel sometimes.

A. I speak of it as I found them.

Q. Do they spread them out?

A. All the way across the channel every time I pass them.

Q. Sometimes they put them out on both sides?

A. Yes, sir.

Q. In what direction do these lines run out from the dredge?

A. Generally either north or south, and they run these lines out from a beam on both sides; may be forward of their beam.

630 Q. In what direction do they run them out?

A. I suppose about southwest of west, northwest, and if they are riding by these lines I suppose by southwest and south of the angle of the machine from the buoys—the end of the line.

This (indicating) is the dredge, here (indicating) is the line. Here (indicating) is about the position of it generally so. That would be about 45 degrees.

A. According to my judgment, about that.

By M'r Beebe:

Have you had any experience in these dredges in the early history of dredges here?

A. When they first commenced this channel I had charge of the city machine. We had no lines in them. We used spuds altogether. They are different altogether.

Q. Now, then, in your judgment, when would the lines be the least obstruction? Suppose the dredge heading to the south of this lines spreading from the stem towards the north or towards the south; in other words, winging out in this way, ahead, or winging out that way, astern?

A. There were dangers anywhere running the line across the channel. The dredges ought to have been moved out of the channel at night.

Q. Which would make you least trouble, to come in contact
631 with the dredges, if you were bound up the channel, with the
lines up to the north, these anchor lines, not the breast lines;
which would be the least liable to come in contact with the dredges, if the lines were stretched to the north and south?

Witness. The dredges riding by these lines from the south?

Q. You understand (indicating) now, that is to the south, she is slacking down the channel to the south. When could the dredge be best managed to give the tow a chance, that is, coming up, with their lines there (indicating) or her lines here, these anchor lines?

A. If the dredge was riding by these lines, she would have to be in the forward part, where you first spoke.

Q. I am talking about the anchor lines.

Witness. A. Aft, of course. If you place them southward and make a funnel——

Q. Suppose she has breast lines out here?

A. Then there is no getting by her at all.

Q. Suppose she does have breast lines out there. She has got these lines aft here, and got breast lines out here, (indicating.) Do you understand?

A. Yes, sir.

Q. Suppose she sees a ship coming up here, coming up on the west
side of her. Now she has help on deck. How long would it take
632 to drop that line or pull the dredge around this way, so as to get
rid of any vessel that was coming up?

A. It would not take long to drop the line, but I do not know how long it would take to slew her. She would soon slew off in wind and current.

Q. Take the wind from the southward.

A. She would drop back 8 or 10 feet pretty soon.

Q. And the change was in that way?

A. She must have changed her position somewhat.

Q. I mean by pulling on this line.

A. Of course if there be no obstructions she would move very quickly.

M'r Wallis:

Q. I understood you to say you would not bring up through that channel a vessel drawing 14 feet 6 inches, unless you had a fair wind.

A. I stated that I would not bring a vessel over 12 feet outside of the line of that channel.

Q. You said it was a bad channel.

A. It is a dangerous channel, because there is no room to handle a vessel in it. If the wind took him ahead, he has no room to fetch her up.

Q. There is no particular difficulty in coming up with a vessel with a fair wind.

A. If the wind holds.

Q. A fair wind and a moonlight night.

633 A. Night is not a proper time. It is not proper to sail a vessel there in any kind of night, no matter whether it be moonlight or not. Moonlight is very deceitful. You can see a little closer than on a dark night, but you cannot judge of distances by it. Some prefer a starlight night to a moonlight night.

Q. You say you object to going up through that channel with a sailing-vessel?

A. Yes, sir.

Q. The Craighill Channel is 24 feet?

A. In many places it is not more than 15 feet. If you go in these steamers, you will jump over every shoal place here in the centre.

Q. Of that portion given to the public as excavated?

A. Yes, sir; the officers missed those lumps. It is impossible to find all those little places; we find them when we go over with the steamers.

Q. Are you not mistaken in supposing that when a tug is alongside that the pilot has command? Isn't it just the other way, that when a tug is alongside, that the tug has entire control of the motions of the vessel, and that the captain of the tug regulates?

634 A. No, sir; in our port here, if the captain of the tug-boat—if a ship employs a tug-boat, and if he don't wish to go ahead of the ship, but puts the tug alongside, of course the pilot has charge and gives directions as to the course of the ship, &c.

Q. Isn't it the other way, exactly, that when the tug is alongside, the commander of the tug has absolute control and is entirely responsible for the motions of both?

A. No, sir.

Q. (M'r Marshall.) The Supreme Court has decided the opposite exactly.

WITNESS. I am only stating the facts.

Q. Then there is no use of a pilot when the vessel is towing—if she is ahead and towing there is no use of the pilot at all, except to keep immediately aft?

A. Only to see that the men at the wheel steer after the tug. That is the custom of this port.

Q. I suppose any seaman and commander of the ship can do that as well as the pilot?

A. Every bit, if he sees fit to do it.

Q. So far as seamanship is concerned, it requires nothing, if the only rule is to keep immediately after the tug. It is just as easy for the captain to give the order as the pilot.

A. They have whole, sole control, the pilots have, for the last ten years.

635 Q. Do you mean to say you cannot control your own motions, and going along three or four knots an hour, by your own sails?

A. We do not generally make the sails, the pilots don't, unless requested by the tug to do so.

Q. You have sails and you go along with the wind at three or four or five miles an hour? Haven't you sufficient control of the course of your own vessel to be able to put her to the right or left, just as you please, aport or starboard?

A. I can sheer on either quarter if I see fit.

Q. How many points?

A. A broad sheer, if I saw fit.

Q. In giving a broad sheer could not you pull the tug right round—a vessel of that kind going along at four or five miles an hour, the tug being ahead, I mean not off one bow or the other, so as to give you a perpendicular pull, but when she is ahead of you, can you sheer either to the starboard or port, so as to pull her round some time before she can control your motions ?

A. If I have way enough of the ship, I can sheer her either way.

Q. State whether or not this *this* pilot on board this vessel has not been removed by the examiners' board for intoxication that night ?

A. The board was a board of examiners, of which M'r Perot is president and M'r Stewart Jenkins——

636 Q. Never mind about that. State whether or not he has been removed.

A. The understanding of this board of examiners as to how they came to break M'r——

Q. Has he been removed ? That is the question ?

A. He has been broken.

Q. For intoxication that night ?

A. I want to explain to you how the board of examiners understood the case.

Q. State if it was not for that.

A. Yes, sir.

Q. Now you can explain it.

A. We understood after the collision that M'r Adams went below and laid down. In accordance with the rules, the pilot has no right to go below at no time, not with the ship's anchors down in port.

Q. It was for his going below that you removed him ; not for intoxication ?

A. We understood he was intoxicated, too, but it was after the collision.

By M'r Beebe :

Q. It was not for intoxication before the collision ?

A. No, sir ; the captain stated he was in the house.

Q. Was there any doubt about the fact that up to the time of the collision he had charge of the ship ?

M'r Wallis :

637 Men don't get drunk immediately after taking the first drink.

A. Some men do and some men may take a bottle of whiskey and in half an hour they will be beastly drunk ; they won't let go until they get the whole of it.

Captain SHAW recalled.

By M'r Marshall :

Q. I think you stated you were both a pilot and owner of a tug ?

A. Yes, sir.

Q. Do you know what the ways of vessels coming into the port of Baltimore is with reference to being towed ? Is it usual or not for vessels to take tugs ?

A. It is the custom of the port to take tow for the large-sized vessels.

Q. What is the custom of the port with reference to the control of the tug over the course that the tug and tow take ?

A. The tug, when she is towing a heavy ship of any draft, the tug expects the ship to be steered after the tug.

Q. She points out the course?

A. Yes, sir.

Q. That is the usage?

A. Yes, sir; whenever I have taken a ship in tow, I expect the ship to be steered after it.

638 Q. If the tug wants aid of sails, the help of the ship, who gives the direction as to whether you sail or not?

A. I generally *sign* out to ask the pilot to set the sails.

Q. The captain of the tug generally makes that request?

A. Yes, sir; I generally request them to make sails, if I need, of the ship.

Q. Have you ever had any difficulty in passing those dredges with those lines——

(Objected to by M'r Steele.

The question was modified as follows:)

Q. Can you state from your experience whether or not the navigation of the Craighill channel is rendered more dangerous and difficult by the presence of the dredges in it?

(The modified question, being objected to, was subsequently withdrawn.)

M'r Marshall:

Q. Do you know whether or not, after this collision on the 25th of March, whether those dredges were hauled out of that channel at night?

A. No, sir; I do not know it.

M'r Wallis:

Q. You say expect the ship in tow to sail after you?

639 A. Yes, sir; steer after me.

Q. As a matter of course, if you are to run into anything, you would not expect her to follow you in running in?

A. No, sir.

Q. A vessel coming up as you have heard those vessels described, with the wind blowing with the strength it was that night, and from the direction, would that vessel have control of her own helm so as to go to the right or the left?

A. Yes, sir; he would have entire control of her helm, going at the rate of speed she was going.

Q. Who docks the vessel after you get to the harbor?

A. The tug-boat captain; he generally has charge of the docking of the ship.

Q. Do you know Captain Anderson?

A. Yes; well acquainted with him.

Q. Do you know what his capacity is?

A. I think he is a competent man, so far as I know. He is also captain of a tug-boat.

M'r Wallis:

Q. What is his reputation as an officer?

A. O, very good.

M'r Wallis:

Q. Has he ever commanded tug-boats for you?

A. Yes, sir; one of our boats, a short time.

M'r Marshall:

640 Q. What did you take him off for?

A. Because our other captain was sick at the time, and we got Captain Anderson only for a few days.

M'r Beebe:

Q. Has not he the reputation of being a reckless man, comparatively so?

A. I don't know anything about it. If he has, I have never seen any of Captain Anderson's recklessness.

Q. I am not talking about your individual knowledge. I am talking about his reputation in towing, whether he is not esteemed a careless man in towing.

A. I have heard people say that Captain Anderson was a little careless and reckless about a good many things; but those kind of statements I don't place much faith in.

By M'r Wallis:

Q. Haven't you heard that of almost every man engaged in towing vessels?

A. Yes, sir; I heard people say that of me, and I hav'n't done $50 worth of damages in 20 years of towing.

Henry Spanier sworn.

By M'r Marshall:

Q. Do you own a tug-boat in this harbor?

A. I own a piece of one.

641 Q. What tug-boat?

A. Ellen.

Q. Do you know Captain Anderson?

A. Yes, sir.

Q. Was he ever in your employ?

A. Yes, sir.

Q. In what capacity?

A. Captain.

Q. Of the Ellen?

A. Yes, sir.

Q. How long?

A. I suppose two years and a half or three years, altogether.

Q. How long did he command her?

A. About two and a half or three years.

Q. You know what his character and reputation are as a man of caution and prudence here?

M'r Wallis. I have no objection of going into that, but it is not evidence. You cannot prove a man's reputation for caution by individual knowledge. I have no objection to it, however.

M'r Marshall. If you have no objection to it, why do you say anything about it?

Q. Do you know it?

A. Very poor.

Q. What was your experience with him?

642 A. I have paid a good many damage-bills, which I regret very much.

Q. Did you discharge him?

A. No, sir; he quit on his own accord, because there were more owners than myself.

Q. Did Anderson have any share in her?

A. No, sir.

Q. While he was in command, were these bills for damages frequent?

A. Yes, sir.

By M'r Wallis:

Q. What was the character of these damages?

A. Well, carrying away jib-booms, and one thing and another.

Q. In docking vessels?

A. I know of only one occasion when I was aboard, taking a head-line and attending to the docking of the vessel, of breaking and taking away a piece out of the vessel, and other things belonging to it. I paid the bill, $40 or $50.

Q. How was it that the owners didn't remove him if he was doing all these things, and they were losing money by him?

A. Because they didn't want to be changing captains all the time.

Q. Not change a captain who was bringing you all the time into debt?

643 It was wrong, but the more men, more sore-heads.

Q. I should suppose the more sore-heads there were, the less disposition they would have to keep themselves sore.

A. I didn't see all the damage myself. Probably if I had been on board the vessel, he would not have staid on that long.

Q. Didn't the paying of damages disincline you to keep him just as much as if you had seen the thing done that you had to pay for?

A. As most people think there is money in Captain Anderson, he does a great deal of work, until they experience him.

Q. Don't you know from your experience that it is next to impossible for any man conducting a tug-boat, and bringing vessels in and docking them, to prevent meeting with small accidents of that kind in a small harbor, and that with the utmost care it is impossible for any man to avoid them?

A. One steamer, just before he left, I paid a bill, I suppose of $150, for running into the steamer Hackensack. I didn't see it, but they say it was a very great piece of carelessness.

Q. You do not know anything about it?

A. No, sir, only I paid the bill.

644 Q. You don't know whether it was careless or not?

A. No, sir.

Q. And you never saw but one of these things that you call a piece of carelessness on his part?

A. Yes, sir.

Q. You allowed this man to remain there in this way to leave voluntarily?

A. Yes, sir.

Q. Wouldn't you have kept him if he would have staid?

A. I have remarked since he left at different times that we were lucky in getting rid of him.

Q. I asked you if you didn't want to keep him at the time he went away?

A. No, sir; we wouldn't have kept him much longer, because I had a brother aboard, and he had been serving an apprenticeship there of about seven years, and he was planning to get on M'r Ehrman's boat. I said, no, not to make any change now.

Q. You let him go in order to put your brother there? Your brother has made no losses?

A. No, sir; I don't think I have paid $16, and he has been there sixteen months.

Francis Fosco sworn.

Mr. Beebe:

Q. How old are you?

645 A. 41.

Q. Born where?

A. Scilla, in Italy.

Q. How long have you followed the water?

A. 21 or 22 years.

Q. Able seamen?

A. Yes, sir.

Q. To what vessel is he attached now?

A. Agnese.

Q. How long has he been attached to the Agnese?

A. About 5 months.

Q. Where did he ship in her?

A. In Antwerp.

Q. Came from Antwerp here to Baltimore on her?

A. Yes, sir.

Q. Was he on board of her with the dredge?

A. Yes, sir.

Q. Where was he at the time of the collision?

A. At the wheel.

Q. When did he go to the wheel?

A. 8 o'clock.

Q. Who was at the wheel with him?

A. The other man.

Q. Did they both go to the wheel at the same time?

646 A. At the same time.

Q. Ask him if he continued at the wheel from the time he took it up to the collision?

A. He continued it until he came to Baltimore.

Q. Had the tug commenced to tow the ship when he went to the wheel?

A. When he came to the wheel they were towing it.

Q. Had the tug her light all lighted?

A. Yes, sir.

Q. What kind of a night was it?

A. It was cloudy; quite, he says.

Q. Starlight?

A. He says he thinks so, but don't know exactly. He was always watching the tug-boat.

Q. Had the tug-boat her lights set?

A. Yes, sir.

Q. Ask him if he received any orders how to steer—to steer after the tug?

A. Yes, sir.

Q. How did they keep the tug's lights?

A. On the starboard bow.

Q. Ask him if he remembers passing the first dredge, when they passed it?

A. He says he saw it when he was abreast.

647 Q. At that time what sail had the ship on her? had she two topsails or main fore topsails?

A. Yes, sir.

Q. How near does he think they passed to this first dredge?

A. He says very little, very close.

Q. Ask him if there was anybody on the lookout?

A. Yes, sir.

Q. Ask him if he heard any report from the lookout before they came to the first dredge?

A. Yes, sir; he said there was something forward.

Q. Did he see any light on the dredge as he passed it—the first dredge?

A. He says he saw the light when she was abreast.

Q. What kind of a light was it?

A. He says it was a feeble light.

Q. Now, ask him where the mate was at the time they were passing the dredge?

A. He says working and watching the wheel.

Q. How long had he been doing that?

A. He says he was always there from the time he came to the wheel.

Q. Where was the pilot?

A. Top of the house.

648 Q. Ask him if he understands English enough to know what "port" means, "starboard," and "steady?"

A. Yes, sir.

Q. Ask him when the ship passed the first dredge, how they had the tug's light?

A. Always on the starboard bow.

Q. Ask him if, at any time after passing the first dredge and before they struck the second, if there was any time they made any change of their wheel?

A. No, sir.

Q. Did they change their wheel at any time before they struck the dredge?

A. He says when he saw the tug-boat take the sheer, he says he put the helm on the starboard.

Q. Then there was a change; the wheel was put hard a-starboard?

A. Yes, sir.

Q. Who ordered it hard a-starboard?

A. The pilot, he says, and the mate.

Q. Did he see the tug take that sheer to port?

A. Yes, sir.

Q. Was that a gradual or a sudden sheer?

A. Sudden.

Q. Ask him if, as soon as that sheer was taken, if their wheel was put hard a-starboard?

649 A. Yes, sir.

Q. Who helped to put the wheel hard astarboard?

A. The chief mate.

Q. Now ask him whether the pilot had been on deck all the evening.

A. He says he always saw him.

Q. Was he giving orders from time to time?

A. Yes, sir.

Q. Did he observe any signs of intoxication upon the pilot; that he was drunk?

A. No, sir.

Q. Now, after the collision where did he go?

A. He says he went as far as the wheel. Went forward to see what the trouble was.

Q. Had he seen the second dredge up to the time they struck her?

A. No, sir.

Q. When he went forward did he see any light on the dredge?

A. No, sir; he says he saw a man hoisting.

Q. Then he did see a light, did he not, if he saw a man hoisting a light?

A. Yes, sir; he saw a man hoisting a light.

Q. Was the man hoisting when he got forward?

A. Yes, sir.

650 Q. At the time he got forward was the ship still in contact with the dredge?

A. Yes, sir.

Q. Did he see the dredge sink?

A. Yes, sir.

Q. How long was after he got forward before the dredge sunk?

A. He says he cannot calculate it, he cannot tell how long since.

Q. Was it some time or a short time?

A. He cannot say; he says he don't remember.

Q. Ask him if he saw the tug sink—whether at the time the dredge sunk—whether the ship had let her anchor go before the dredge sunk.

A. He says he don't remember when they let go the anchor before the dredge sunk.

Q. Now from the time they passed the first dredge up to the time of the collision, was there any time when their wheel was put to port?

A. No, sir; never.

Q. Was there any time, so far as he could judge, when the ship's head fell off to starboard, went off to the right? I mean now from the time they passed the first dredge.

A. No, sir; there was no time.

Q. Was he carefully watching the light of the tug all the time?

A. Yes, sir.

651 Q. When did he get the order to steer after the tug, to keep his tug's lights a little on their starboard bow, whether they got that when they went to the wheel?

A. When he went to the wheel.

Q. That made them watch the lights particularly?

A. Yes, sir.

Q. Was the mate walking there watching the wheel?

A. Yes, sir; he was walking and watching the wheel.

The court:

He said that he saw a man in the second dredge hoisting up a light; ask him on what part of the dredge he was hoisting up that light.

A. On the starboard.

Q. That was the part farthest from the stern?

A. Yes, sir.

M'r Steele:

Will you ask him where, on the deck of the ship, was the house on which the pilot stood?

A. About midship.

Q. You mean sides?

A. No, sir; length.

Q. Ask him how high it was.

A. About 8 feet, he says.

652 Q. How much of the deck did it occupy; how wide was the house?

A. About 16 feet.

Q. Ask him if he could see the dredge before he struck from where he stood.

A. No, sir.

Q. Could he see the tug from where he stood?

A. Yes, sir.

Q. How long after the ship struck the dredge was it that he saw the man hoisting up that light?

A. He says when she struck the dredge he was at the wheel; he went right forward and he saw the man hoisting the light.

Q. Just after she struck?

A. Yes, sir.

Captain **ADAMS** recalled.

By M'r Beebe:

Q. From the wheel, could the men see the light of the tug?

A. Yes, sir.

Q. Where away did they look to see it?

A. Right over this house midships.

Q. Did you make the test yourself at the wheel so as to see whether you could see it?

653 A. I did, and put the box there for the man to stand on so that he could see the light plainly.

By M'r Wallis:

Q. State if you could see the tug—her lights; and whether you could not see the light on the dredge.

A. The light of the tug was higher than the dredge lights.

Q. Do you know how high they were?

A. They were under this working beam.

Q. I mean of the tug.

A. I do not know exactly how high her pulley is; but I know considerably higher than the dredge lights.

JAMES C. COLE sworn & examined.

By M'r Beebe:

Q. What is your business?

A. I am agent for the underwriters in the city here.

Q. Your business is here?

A. Yes, sir.

Q. Do you know the captain and mate of this vessel?

A. Yes, sir.

654 Q. How long after their arrival did you first see them, the captain and mate of this vessel?

A. I think the next day I received instructions to hunt them up.

Q. From that time on have you been in daily communication with them almost?

A. Yes, sir; every day I think they have been in my office.

Q. Have you had an opportunity of testing the captain's knowledge of English?

A. Yes, sir; thoroughly.

Q. Also the mate's?

A. Yes, sir; thoroughly.

Q. What was the character of the captain's knowledge of English when he first come here?

A. They could absolutely scarcely speak one word of English, either of them.

Q. Did you endeavor to make yourself understood by them?

A. Yes, sir; I endeavored to find out whether they spoke English.

Q. Were they able to do it?

A. No, sir.

Q. Through what means have you always talked with them?

655 A. Entirely through an interpreter except about a week after they had been here. I discovered they spoke French.

Q. How about the mate?

A. The same. He could scarcely speak a word of English. They do now speak some few words.

By M'r Steele:

Q. Did you talk with him?

A. Yes, sir.

Q. Did not the mate speak some English?

A. I could not make out that he spoke five words.

Q. Did you make yourself understood by him in any single question?

A. No, sir.

M'r Marshall here announced that the evidence on the part of the ship was closed.

M'r Wallis stated that he would proceed to call a few witnesses to rebut the evidence that had been introduced on the part of the ship.

M'r **ABRAHAMS** sworn & examined.

By M'r Wallis:

Q. What is your business?

656 A. Proprietor of the Screw*dolph*, and am a member of the firm of J. J. Abrahams & Co.

Q. State whether you know Capt. Anderson here; and, if so, how long have you known him?

A. I suppose ten or fifteen years.

Q. Will you state what his reputation is for capacity as commander of the tug?

A. His reputation as commander of the tug is that of a very skilful commander, from all that I have heard. I have no personal knowledge myself of his skill. I have been managing the dock for the last several years, individually, and, therefore, have had intercourse with quite a number of captains. I have frequently asked them if they had a tug to draw, and I have asked them, "Who have you got?" They said, "We have got Anderson." "Well," said I, "you have got a pretty good man." There is one man in particular that I can speak of.

Q. I do not want to enter into detail. I ask you if you have, yourself, any personal knowledge of his skill as developed by his towing vessels?

A. He has always put a vessel in a dock very skillfully. Having a northwest wind, you know, it is a most difficult job to put a vessel into the dock.

657 Q. Not only as regards his skill, but as regards his prudence and care; what is your observation of him in these respects?

A. He has always been a very prudent man, from what I have seen of him.

By M'r Beebe:

Q. As a matter of course you have not been with him on a vessel?

A. No, sir.

Q. So far as your personal knowledge goes, it is confined to the fact that he has brought vessels to your own dock, and they have been put there by him?

A. Yes, sir; they have been brought to me in a very skillful manner.

J. W. **Randall** sworn.

By M'r Wallis:

Q. What is your occupation?

A. I am employed in the mercantile business.

Q. Have you any connection with or knowledge of the towing business?

A. We have. Father has been the owner of tug-boats for some time; for years.

Q. State whether you know Capt. Anderson.

A. I have known the gentleman for many years.

658 Q. What is his reputation in the first place for skill and prudence as a commander of a tug?

A. I have always understood he was as skillful a commander as any in the harbor.

Q. Have you personal knowledge of his skill?

A. No personal knowledge; only by his reputation.

By M'r Beebe:

Q. Do you remember anybody that you ever heard speak of it?

A. Well, do you mean whether I remember ever hearing any one speak of his reputation as a commander?

Q. Yes.

A. I cannot say exactly that I have. I have never heard the opposite spoken of.

Q. Have you ever heard him talked about in any way?

A. Only in an implying manner of his skill as a commander.

Q. Have you heard anybody speak on the subject?

A. No, sir; I cannot say directly that I have.

By M'r Wallis:

Q. State whether or not you have heard him spoken of among other commanders of tugs and by persons who are engaged in that business?

A. I have always understood him as a safe man to employ in moving vessels under trying circumstances.

659 By M'r Beebe:

Q. Tell me who did so?

A. I have heard people remark that he was a good man.

Q. If you can only tell me somebody.

A. I could not state any special person now; that is his general reputation among the parties employing tug-boat captains.

Q. Have you heard anybody talk about it?

A. That was his general reputation.

A. Never mind that. General reputation must be made up of what folks say. Do you know of anybody who has ever talked about him?

A. I could not exactly say just at this moment, because I do not remember.

By M'r Wallis:

Q. You mean to say you cannot name any particular person?

A. That is all.

Q. You do not mean to say that you have not heard various persons?

By M'r Beebe:

Q. If it is so generally, would you not remember somebody that you had heard mention it?

A. I never knew of the captain being in any trouble to question his capacity.

660 Q. That is quite another thing; but the question is whether you ever heard his reputation or his skill talked about?

A. Only, as I say, that of a safe, skillful commander.

Q. Have you heard it talked about?

A. I have heard it talked about, but, as I say, I could not tell you in what particular place.

Q. Can you mention a man that you ever heard speak of it?

A. I could not, directly.

Q. But you have heard many?

A. Yes, sir.

Captain SHAW recalled.

By M'r Wallis:

Q. The principal question that I wanted to ask you was this: You have heard the statement made as regards the kind of night, and perhaps the best way in which you can testify in regard to it is, to let me ask you whether you were out there that night yourself?

A. Yes, sir; I was out in the bay that night, the same night.

Q. You know the character of the night; was the wind blowing?

661 A. Yes, sir.

Q. Be good enough to state to me whether, in your judgment, there was anything imprudent in bringing a vessel drawing 14½ feet through that channel that night, with that wind, although the dredges were in the channel?

A. I should have gone through if I had had the same kind of a ship.

Q. Would you or not have considered it imprudent?

A. I would not. All that I would have wanted would have been a good look out on board the ship to steer after the tug.

Q. Have you or not stated to the conrt that you have gone up and down through that channel at night with vessels of the same draft?

A. Yes, sir; more draft.

Q. With dredges in the channel?

A. Yes, sir.

By M'r Beebe:

Q. As I understand you, this was the first day the dredges had been in that part of the channel. Now I want to know if, after that, at any time before the contract was finished, you were up or down in the night with a ship?

A. Yes, sir. In the night, with vessels. I do not remember
662 whether I came up or down.

Q. Are you not able to tell me whether those dredges, after that collision at night, were hauled out of the channel?

A. I always found them at the station every time I passed.

Q. Do you remember any particular instance when you went up and down after this collison?

A. I do not remember any particular night, but I have had several vessels. The barque Potomac and one of M'r Perot's vessels went down after the collision, and it was blowing a heavy gale of wind.

Q. When?

A. A couple of weeks after that accident happened.

Q. In the night?

A. Yes, sir.

Q. Which way was the wind?

A. Northwest; blowing a gale of wind.

Q. Is that the only instance of towing in the wind?

A. I have towed two or three barques up and several down. I towed a large schooner down, drawing 17½ or 18 feet, after that.

Q. Which side of the dredges did you come up with that barque?

663 I went east of the dredges that were laid at their moorings, and westward of the one that was sunk.

By M'r Steele:

Q. I understood it was after this collision that you say you have passed along that channel at night and found the dredges at their stations.

A. Yes, sir. I have always found them at their stations. I do not remember ever to have seen them out from their moorings.

By M'r Beebe:

How far out to the eastward of that dredge did you pass?

A. 40 or 50 feet; just sufficient distance to clear. I always keep as close as I can.

Q. Do you slow down when you are approaching?

A. Sometimes in the day-time I do.

Q. Do not you in the night-time? If it is important in the day-time, is it not still more important in the night?

A. I blow my whistle in the night, but in the day-time I always see the vessel, slow down and move what we want.

Q. Suppose you run under a single bell.

A. That stops the steerage-way.

Q. Do I understand you to say that if you slow down and run on a single bell, that stops your steerage-way?

664 A. Yes, sir; I think it does. I think the faster the ship comes the better she will steer.

Q. How many knots would you make with the single bell?

A. Ordinarily the vessel will do her five miles.

Q. With a single bell?

A. No, sir; not with a single bell. I mean full speed.

Q. I am talking about your running under a single bell.

A. Quite slow. I' could be done so that she would not go half a knot.

Q. I am not asking you about your running under a single bell.

A. May-be 2½ miles an hour.

Q. Do you tell me when running under a single bell she falls off half from her fast speed?

A. Of course, sir, she will slow down her speed; and a vessel without headway is not so apt to steer as one with headway.

Q. Is that a matter of course, if you run under two bells and run under a single bell with sails, you' speed will be one-half?

A. Yes, sir; may be ten minutes the vessel will slack down, but not right immediately.

Captain THO'S N. NORRIS.

665 M'r WALLIS. My brothers on the other side have not produced the original protest. They have intended to do so.

M'r **Marshall.** We will produce it; we sent to the wrong place for it.

M'r **Wallis.** I have here one signed by the parties.

Q. You took that for M'r Hodges?

A. Yes, sir; this is an original.

Q. State whether, or not, you had an interpreter?

A. I had.

Q. Be kind enough to state from whom you took it down in that English?

A. I took this down from the minutes procured from the Italian consul; I might say verbal minutes.

Q. Then, after that was prepared, and before it was signed, will you be kind enough to state to the court what was done?

A. It was a paper, I believe, faithfully interpreted by an interpreter to the most of the crew.

Q. State whether, or not, after that was written down, it was translated in Italian, and by the interpreted of this man before they signed it?

A. It was in my presence.

By M'r Beebe:

Are you a notary.

A. No, sir; I am not.

666 Q. Did you subscribe M'r Hodges name to that?

A. Yes, sir.

Q. He is a notary?

A. Yes, sir.

Q. And you signed his name to that document?

A. Yes, sir.

Q. Does it profess to be Hodges by yourself?

A. No, sir.

Q. Do you speak Italian?

A. No, sir.

Q. Whether that was interpreted, or not, you do not know?

A. I do.

Q. Can you speak Italian?

A. No, sir.

Q. Whether it was correctly interpreted, or not, do you know?

A. I cannot say that. I believe it to be faithfully done.

By M'r Wallis:

Q. You took this down from information given by the Italian consul, and after it was taken down it was read. It was read by the interpreter in your own presence and this man's?

A. It was.

Q. They afterwards signed it?

A. Yes, sir.

By M'r Beebe:

667 But whether read correctly, or not, you do not know?

A. No, sir; I cannot say that.

Q. Then, this Thomas Harris Hodges, notary of the public, is that his handwriting?

A. Yes, sir.

Q. And not M'r Hodges?

A. No, sir.

The court:

Was Hodges there when you wrote that answer?

A. No, sir; he authorized me to do such business; to put his seal on.

Q. And he was not present?

A. No, sir.

The COURT. Is he a deputy?

M'r MARSHALL. No, sir.

M'r WALLIS. He has authority from M'r Norris to transact that sort of business for him.

Whether you had the right to authenticate it or not, that paper was read by the Italian interpreter in your presence and these people, and after it was read to them they signed it.

A. Yes, sir.

M'r Beebe:

But you know nothing about what he said or they said?

A. No, sir; of course. I don't understand Italian.

Q. Where is the interpreter?

A. I cannot say.

668 M'r Wallis:

Do you know who he was?

A. No, sir; he was there at the same time, and came for that purpose, as I understood it.

Q. Who did he come with?

A. I presume with the captain or with the captain's agent.

Q. You did not send for him?

A. No, sir.

Capt. Lord recalled:

M'r Wallis:

Q. At what time did I understand you to say in the evening it was you anchored your dredge in the position in which she was at the time of the collision?

A. Somewhere about 4 o'clock—between 3 and 4 o'clock.

Q. Was she done work at that time or had she not commenced?

A. She had not commenced then.

Q. You put her in the position she was to go to work the next morning?

A. Yes, sir.

Q. How did you put out your anchors?

A. Two quarter anchors and a stern anchor.

Q. How put them out?

669 A. The quarter anchor ahead at the angle of 40 or 45 degrees.

Q. Where did you drop them from?

A. From the tow-boat. The tow-boat carried them out.

Q. What was the tow-boat?

A. Mary B. Curtis.

Q. She carried them out?

A. Yes, sir.

Q. How far carried them?

A. About 600 feet; about from 100 to 105 fathoms.

Q. On each side?

A. Yes, sir.

Q. At an angle of 45?

A. About 40 or 45.

M'r Marshall:

Q. When you say an angle of 40 or 45 degrees, will you please explain whether you mean that angle. Here, for instance, a hawser taken out on this side, whether you mean that made an angle of 45 degrees with the axis of the dredge, or made an angle of 45 degrees with the other hawser; explain that?

WITNESS. I do not understand the question.

Q. You say the tug-boat took out the anchors, you had the square end of the dredge?

A. Yes, sir.

670 Q. The tug-boat took the anchors out, one on this side and one on that?

A. Yes, sir.

Q. Now here is the axis of the tug running right straight out so, (indicating.) The question I ask you is, when you speak of an angle of 40 or 45 degrees, this hawser taken out so as to make an angle with the axis of 45 to the other hawser?

A. That angle on the side of the dredge.

Q. 45 degrees out so, (indicating,) this side of the dredge and this 45 degrees on this side?

A. Yes, sir.

Q. Those two lines at right angles with each other?

WITNESS. I don't know as I understand.

Q. Here is the dredge, (indicating.) Now here was the one hawser (indicating) taken out here, that made an angle of 45 degrees on that side?

A. Yes, sir.

Q. Then the other one taken out here, (indicating,) making an angle of 45 degrees on that side?

A. Yes, sir.

Q. Then those two lines would be perpendicular to each other?

A. The anchors would be perpendicular to each other.

Q. How so?

671 A. The lines from one anchor to the other.

Q. That could not possibly be. Just explain. This hawser on the starboard side went out an angle of 45 degrees with the side of the dredge, and the other went out 40 or 45 with the other side of the dredge, so the two would make an angle double the angle each one made at the side of the dredge with each other?

A. This being the direction of the side of the dredge, if you draw a line out here, (indicating,) making an angle of 45 degrees with this one, and the line on this side, (indicating,) making an angle of 45 degrees with that, the two would make an angle of twice 45, or 90 degrees with each other.

M'r BEEBE. That is, the distance between the two is 90 degrees?

Q. Do you know whether those anchors, when they were taken out by the tug-boat, were taken—did she take the anchor on the east side out of the channel, beyond the buoys on the east side of the channel?

A. Yes, sir.

Q. Beyond the buoys on the east side?

A. Yes, sir.

Q. And took the starboard anchor out on the flats on the west side.

672 Yes, sir.

Q. So that her hawsers covered the entire channel, one anchor being to the east of the buoys, and the other on the west side on the flats?

A. Yes, sir.

M'r Steele:

State whether your quarter lines were out in the usual mode—had the usual angle that night.

A. Yes, sir.

Q. It is your custom to put them out at that angle?

A. Yes, sir.

Q. Do you vary it?

A. No, sir.

Q. Do you know where that Swash Channel which connects the Brewerton Channel with the Craighill, comes into the Craighill Channel

A. No, sir.

M'r Marshall:

You explained when you testified first, when Judge Beebe was examining you, the reason why you give such an angle you then described to the hawser, was for the purpose of moving the dredge forward?

A. Yes, sir.

Q. What do you mean by that?

673 A. As we dig the length of our bucket across we have to move owing to the depth of the water we want to make them to rest the spud.

Q. Very well, when your hawser went out, did you pull forward by the hawser?

A. Yes, sir.

Q. Now, then, why would you not require to have the hawsers going more directly in front in order to move the dredge forward?

A. Because we could not hold the dredges steady to work.

Captain Anderson recalled.

Mr. Wallis:

It has been stated by the master and the mate of this Italian vessel that they clewed up their topsails between the time when they passed the first dredge and came into collision with the second. Will you state to the court whether or not that is the fact.

M'r BEEBE. I object, for the reason this witness has answered this same question, and we call the others. He said it was after the collision that the foresails were clewed up.

M'r WALLIS. I have no recollection of that. I recollect of his simply stating that the vessel had her topsails up at the time of the collision.

Q. When the sails were clewed up; state, if you know?

674 A. After the collision took place.

Q. Did you see them clewed up?

A. I did.

Q. At what time after the collision?

A. While I was going around to the stern of the ship, in order to get a hawser to it, to steer clear of the machine.

Q. By whose order was it done?

A. I do not know.

M'r Ehrman recalled.

By M'r Wallis:

Q. I ask him how long he said, upon his examination-in-chief, that Captain Anderson had been in his employ?

A. About 18 months.

Q. Will you state whether you know what Captain Anderson's reputation as a master of a tug has been?

A. His reputation had always been very good as a skillful master of the tug-boat. That is how I came to select him.

Q. You selected him from his reputation?

A. Yes, sir.

Q. He has been how long in your employ?

A. 18 months.

Q. Have you found him an expensive man?

675. A. No, sir; I have never paid a dollar of damage whilst he was in that small boat to my knowledge, with the exception of two dollars that I paid here about a month ago to the steamboat company here in putting in a vessel into a dock at Locust Point.

M'r Beebe:

Please do not go into that. Have you ever heard anybody speak about his skill?

A. Yes, sir.

Q. Who?

A. It is the general reputation.

Q. Who have you heard?

A. The captain of the ship Ben. Butler. The first of my making his acquaintance he appreciated and congratulated me.

Q. I do not want you to preach a sermon over every question. I wish you would state who else besides the captain of the ship Ben. Butler?

A. The captain of the bark Kingsman.

Q. When was that?

A. That was about a month ago. I heard the captain of the Ben. Butler say that. It was last spring, I think, early in the spring.

Q. Anybody else?

A. Yes, sir; a number of people.

Q. Anybody else you can name?

A. Yes, sir.

Q. Who?

676 A. I could name a good many of them, if I could think of them just now. I cannot think of the names now.

M'r Wallis. Captain Anderson desires me to offer various letters he has received from ship-merchants in evidence that he has received of his skill. I do not think they are strictly testimony, although I think the letters the people write to a man are about as good evidence of his ability as the general report of him.

The Court. They would not be evidence.

Captain Shaw recalled.

Q. On the dredge located in Craighill Channel, along with her head to the south and her quarter-lines generally run out—at what angle?

A. About 45 degrees. One of these lines run out going over a bitt, about ten feet from the bow of the dredge—runs out six hundred feet from the starboard side. There is a similar line on the port side. The wind is to the east of south, hitting her a little on the port side.

Q. I want to ask you whether the rope on the starboard side—the line there, would be taut; how much would be on the ground, under these circumstances?

677 And if she was lying to a mooring anchor, holding the dredge, I should not think she would be taut at all hardly; lay on the bottom pretty well.

M'r **Beebe.** We object to it as speculative.

M'r **Steele.** It is in reference to the question asked Captain Landis.

By M'r Steele:

Q. You say under those circumstances the line would be mostly on the ground?

A. Yes, sir; I suppose so. There would not be much strain on it; be lying pretty much on the bottom.

Q. She has her two anchors out?

A. And the wind from the eastward would have a tendency for the starboard rope to be a little slack.

Q. She has an anchor astern and an anchor out on the port; have you one on the starboard bow?

A. Yes, sir; generally have one on each bow, and an anchor to the stern, call it the stern or bow; I do not know which.

Q. Tell me, would it not require a very heavy strain to make a line 600 feet long in the water perfectly taut and straight?

A. Yes, sir; take a tremendous strain to tighten it up taut.

678 Q. So that the tug should not be twenty feet on the ground, and it would require a very great strain to accomplish that?

A. Yes, sir; a line of five, six, or 7 inch hawser, take considerable strain to do that, to take it clear of the bottom the whole length.

M'r Beebe:

Q. If she had an anchor astern which was well astern, so as to hold her up taut, that anchor would hold her hawser taut?

A. Yes, sir.

Q. Suppose that that hawser was not entirely taut; take that as a mere question of argument—it was blowing right straight up the channel dead against the breeze, at the rate—blowing a breeze of 7 or 8 or 9 knots an hour, would not that be likely to carry these lines taut?

A. Right straight ahead there would be as much strain on one as on the other.

Q. And be likely to make them taut?

A. Yes, sir; if they had the anchor astern it would tighten them up some.

Q. How these particular hawsers were placed on this occasion you don't know.

A. I never saw that one.

Q. I am talking about this very occasion when this took place?

679 A. No, sir; I never saw that one. I saw her when she was sinking; that is all.

Q. Did you ever get afoul of one?

A. Yes, sir; once.

Q. One of their lines you did get afoul of?

A. Yes, sir; once, at least, the vessel that was towing got afoul of one of them.

M'r **Steele.** That is not evidence; we object to it.

Baltimore, *Thursday, June 25th*, 1874.

The court met pursuant to an adjournment at 10 o'clock.

M'r Ja's Williams recalled:

Q. Were you employed in raising the dredge?

A. I had some men there.

Q. Were you down there?

A. Yes, sir.

Q. Will you be kind enough to state to the court which way her head was lying, whether north or south?

A. North; her head up the bay.

Q. Any doubt about it?

A. No, sir.

By M'r Marshall:

680 Q. When she was raised did you notice anything about the hawsers by which she was attached to her anchors? Did you see them?

A. No, sir.

Q. Were they detached when they were raised?

A. I was not there when she was raised.

Q. Did not see them at all.

A. No, sir.

By M'r Wallis:

Q. What participation did you have in the raising yourself?

A. I sent men down there to help to get her up, and then M'r Fobes asked me to go down and assist them, and I went there and saw how she was lying.

Q. Where was she? Was she at the bottom still when you got there?

A. Yes, sir.

Q. Did you see her raised?

A. No, sir.

Q. What you know of her position was derived from what you saw while she was still below the water?

A. She lay with her head to the northward. I could see how she was lying. I could see her king-posts, and see how she was laying.

Q. Did you see her buckets?

A. No, sir; the buckets were down. I saw the king-posts where the buckets were attached to it.

681 Q. Your business is that of a wrecker?

A. Yes, sir.

RICHARD SCOTT sworn.

M'r Steele:

Q. What is your business?

A. Wrecker.

Q. Were you employed in wrecking the dredge Charles Fobes?

A. Yes, sir.

Q. Did you have an opportunity of seeing which way she was lying; what was her position?

A. Yes, sir.

Q. Who put the chains under?

A. I did, with the assistance of the tug-boats and the crew of the dredge.

Q. Which way was her head lying?

A. North.

Q. You had full opportunity of seeing and knowing; you raised her and put the chains on her?

A. Yes, sir.

M'r Marshall

Q. When you raised her, were you down there all the *the* time she was being raised?

A. Yes, sir.

Q. Did you notice the hawsers attached to the anchors?

682 A. I noticed the hawsers attached to the anchors.

Q. Were they still attached to the anchors?

A. Yes, sir; one was cut.

Q. Which one was cut?

A. That I won't say; I think it was southwest.

Q. That was cut?

A. I think it was southwest.

Q. Was it cut entirely in two?

A. It was either cut in two or broken in two.

Q. Was it entirely parted?

A. It was entirely gone—one of them was entirely gone.

Q. That was her southwest hawser?

A. Southwest or southeast, I disrem'ber which.

Q. As she lay then?

A. Yes, sir.

Q. The anchor where she lay—the anchor attached to the hawser was down the stream from her?

A. Yes, sir.

Q. Then southwest, looking down stream?

A. Yes, sir.

Q. That was the hawser that was entirely parted?

A. It was entirely gone; whether it was parted or not I would not be able to say.

Q. Did you see any part of it?

683 A. No, sir; I cannot say—no, I am wrong; we cut it after we got there; we got the bight and cut it.

Q. It was unbroken when you got there?

A. Yes, sir.

Q. What depth of water where you raised her?

A. In 24 feet of water where we raised her.

Q. Did you know anything about that channel?

A. I am not much acquainted with that channel. I was well acquainted with it before it was cut, before they got to digging there.

Q. Do you know a part of it had been excavated to a depth of 24 feet?

A. No; I know there had been 24 feet of water previous to that, but some lumps.

Q. You did not know about the excavation?

A. No, sir.

Q. This southwest hawser you say you cut after you commenced to raise her?

A. Yes, sir.

Q. Was the other hawser still attached?

A. They were all attached, I believe, to the best of my knowledge.

Q. Will you tell us which way the astern hawser—which way the anchor which was attached to the stern hawser—lay with reference to the vessel when you raised her; how was it, below, down stream, or above her?

684 A. That I could not say, because she was under water & we had to take a tug-boat to catch hold of her moorings with the grapplings, so that deranged all. We could not tell which way they laid until we got them regulated.

Q. Do you recollect whether the anchor that was attached to the stern hawser was above her or below her in the stream when you raised her?

A. I could not tell, because she was not straight; and we had to take the tug-boat and grapple all her moorings.

Q. Where did you grab her; below her, down stream, or above her?

A. Both ways.

Q. Some above and some below?

A. Yes, sir; we had to grapple four lines attached to four anchors.

Q. Do you recollect where those anchors were?

A. Northeast, southwest, northwest, and southeast.

Q. All four points?

A. Yes, sir.

Q. Four anchors?

A. Yes, sir.

Q. You do not recollect how far apart those anchors were?

685 A. No, sir; they were a good distance apart—I might say 70 or 80 fathoms, more or less.

Q. Take the southwest and southeast hawser; that is, those two that you grappled with went down stream from her, as I understand?

A. Southeast go down the stream, and southwest be more up-stream; but that would be on the same side.

Q. Do you recollect how far apart those two anchors were? Were they as much as 8 or 900 feet apart?

Q. I do not mean from the dredge, but I mean from each other.

A. No, sir; from each other.

Q. Then they were out of the channel entirely, were not they?

A. That I won't say. There was plenty of water both ways. What they term the channel I am not able to say.

Q. Can you say, with reference to the dredge, where this fourth anchor was? Was it in the direction of the two lower anchors, as you call them—in that direction or up the stream from that?

A. There are two that lead angley up this *this* way, (indicating;) then take two more and lead them that way, (indicating.)

Q. Then there were four anchors?

A. Yes, sir.

686 Mr. Steele:

Q. You say you grappled for those four anchors?

A. Yes, sir.

Q. Did you get them up out of the water by grappling?

A. We got the moorings up, not the anchors.

Q. What do you mean by moorings, the anchors? You got the hawsers up?

A. Yes, sir.

Q. How; by grapplings?

A. Yes, sir.

Q. The hawsers were not attached to the dredge at that time. When you grappled them up they were fastened to the anchor?

A. Yes, sir.

Q. You say if they had been fastened to the dredge you could have raised them right up?

A. Yes, sir.

Captain JOHN ABBOTT sworn.

By Mr. Steele:

Q. Did you command the tug that was used in connection with these dredges in Craighill Channel?

A. I did.

Q. Can you state which way the head of that dredge was lying, and whether north or south?

687 A. Lying north.

Q. You saw her after she was sunk?

A. I did.

Q. You saw her while she was lying there?

A. I did.

Q. Are you familiar with dredges?

A. Yes, sir.

Q. You carried them down with the tug?

A. Yes, sir.

Q. There was a tug for each dredge?

A. Yes, sir.

Q. Do you carry out the quarter-lines to anchor?

A. We do.

Q. At what angle are they carried out?

A. Usually the lines were carried out in these machines at an angle of forty or forty-five degrees.

The court:

Q. Always put out at an angle of from forty to forty-five degrees?

A. Yes, sir.

By Mr. Marshall:

Q. You say that they are usually carried out at an angle of forty or forty-five degrees. You mean with the side of the dredge?

A. Yes, sir.

Q. Not with each other?

688 A. No, sir.

Q. You did not take out the anchors of this one?

A. I did not.

Q. Are these anchors always carried forward?

A. These two are.

Q. Do they not use breast-lines generally?

A. It depends altogether upon the wind.

Q. When they use a breast-line, which way do they put the quarter-anchor?

A. The breast-lines in case of a wind off the port side, it would be on an angle of about sixty degrees.

Q. I am speaking of the quarter-line, when there is a breast-line used on the dredge. Which way do you run the quarter-line for the anchor on the quarter?

A. Just the same.

Q. Forward the same angle, 45 degrees, whether you have a *precise* line or not?

A. Yes, sir.

Mr. STEELE. With the consent of counsel on the other side, I will introduce the following letter. It is a letter dated 1870 from Capt. Cooper, the witness who testified yesterday in regard to the channel. It is as follows:

689
PILOT OFFICE,
83 THAMES STREET, BALTIMORE,
November 24, 1870.

GENERAL: It affords me pleasure to say that, at your invitation on the 19th inst., a delegation from Baltimore (Maryland) Pilots' Association (including myself) examined the Craighill Channel.

We sounded it thoroughly from both sides of the steamer going down and at various points coming up, and found 21 feet of water at average low tide. This channel can be used by steamers drawing 19 or 20 feet as long as the buoys remain in their present position, but for sailing-vessels of heavy draught its width, 200 feet, is too narrow to use without assistance from steam-tugs, as the buoys cannot be relied upon, it being apprehended that the running of ice will remove or displace them, and as there are no landmarks that can be used in running this channel, it will require beacon-lights to be erected before its general use can be availed of. But with more width of channel, and the erection of lights, it will not only be found perfectly safe, but five miles will be saved in sailing distance between Baltimore and Cape Henry.

690 With much respect, general, I remain your obedient servant,

(S'g'd) JOHN H. COOPER,
President Balt. (Md.) Pilot Association.

Brevet Brig. General J. H. SIMPSON,
Col. of Engineers, Baltimore, Maryland.

M'r Steele, after reading the letter, announced their evidence as closed.

Capt. Alexander Jones recalled.

By M'r Wallis:

You stated when you were on the stand before that you were the owner of tugs, and that you had been for a considerable time engaged in that business. I want to know first from you whether you know of the reputation of Captain Anderson, who was the commander of the tug on this occasion?

A. Well, I have known Captain Anderson some ten or twelve years as a tug-boat captain.

Q. In the first place state what his reputation is, and what your own knowledge of him is as to his skill?

691 A. His reputation is that of a very active, industrious man. I had him on one of my boats on one occasion when one of my captains was sick, and I was very much pleased with the man, and did I want another captain at any time, no man I would desire before Captain Anderson.

Q. That is your opinion?

A. Yes, sir.

Q. What is his reputation?

A. That is all I can say. I look upon him—I heard no complaint. Since this trial has been going on I have heard a great many things; some say that he is wild and reckless, and some say one thing and some say another.

Q. You never heard such a thing before?

A. No, sir.

By M'r Marshall:

What you say now is your own personal opinion of him?

A. Yes, sir.

By M'r Wallis:

We understood you to say that you formed this opinion from your personal knowledge?

A. Yes, sir. He commander one of my boats at one time.

ANTONIUS GIBERTI sworn.

By M'r Wallis:

692 Do me the favor to look at this (handing witness protest heretofore introduced in evidence) and see if that is your handwriting?

A. Yes, sir.

Q. You acted, then, as interpreter upon that occasion?

A. Yes, sir.

Q. Be good enough to state how you came to write this?

A. One morning, about two months ago, I was in the office of M'r Michael Magnus and Company. The captain came in——

Q. What captain?

A. Captain Podesta. As I was in the office the only man who could speak the Italian and English languages, M'r Magnus requested me to go down with the captain to the squire's office, because he wished to make a protest. So I went down with the captain, and whatever the captain told me, I told M'r Magnus, and he explained to the squire, which the squire wrote down in English. After that he told me; yes, that is the same thing, (referring to the protest;) he told me to translate that to the men of the vessel, which I did, and after that they swore to it. They swore that it was so. Then I had nothing else to do with it. I went home then.

693 Q. Will you tell the court whether or not you translated that correctly and truly from English into Italian? (handing witness protest before referred to.)

The **WITNESS.** (After carefully examining the wording of the protest.) That is the very thing I translated to the men.

Q. I understood you to say when you went there the men made the statement in Italian?

A. Yes; I interpreted it, and M'r Magnus, as he could speak better English than I, explained it to the squire, and the squire took it down in English; he handed that paper to me and said, "Translate that to the men of the Agnese in Italian," which I did, and the men said it was the case and swore to them.

Q. They signed it?

A. Yes, sir; every one of them.

Q. Do you recollect who the squire was?

A. I do not know his name, but if I should see the gentleman I would be able to identify him, I think.

Q. Was his name Norris?

A. I suppose that is his name.

Q. He has an office at the corner of Gay and Exchange Place?

A. Yes, sir; near the post-office.

694 By M'r Marshall:

Q. Did he not have something written down before any statements were made to him? Did he not have a memorandum from M'r , the Italian consul's office?

A. No, sir; I did not pay any attention at the time. I had no interest in the case.

Q. You do not know how he got that; you heard M'r Magnus telling him something, but you do not know how he got all that?

M'r **WALLIS.** He said distinctly these men made the statement to him, and he translated it into English to M'r Magnus.

The **WITNESS.** He spoke to the squire in better English, because I cannot speak very well. Of course M'r Magnus understands me better than a stranger would, and I told the case to him and he translated tha to the squire.

Q. You told it as the men told it to you?

A. Yes, sir.

M'r Marshall. I propose to ask the witness now to translate the log which came from the Italian consul's office, or that part of it relating to this matter, for the purpose of showing that there has been an error where the log was made cotemporaneous as to the time he
695 thought he perceived the pilot had been drunk. I propose to al-
low him to translate that, because one part of the evidence on the part of the tug shows that the memorandum of what was done was by him, and he testifies he got it from the Italian consul.

M'r Wallis. I have no objection to the log being examined, but I do not think that was the testimony yesterday of Mr. Norris.

M'r Marshall. That was M'r Norris' testimony.

M'r Wallis. I know he said that the first information was from scraps that he got from the Italian consul, not only written but verbal.

M'r Marshall. Yes, sir; and then translated to the men.

Q. Now will you be kind enough to translate this?

M'r Marshall. (Addressing the court.) This is attested by the consul.

The Court. When was that log made?

M'r Marshall. The 25th of March.

M'r Wallis. It is dated the 25th of March, but there is no evidence when it was made.

M'r Marshall. The point I make is this: the captain testified here that after the collision, when they came up to the port, and were
696 come into the port, that he found the pilot was asleep, and he be-
lieved he was drunk; he did not know whether he was drunk or sick, but he could not give any orders; he did not wake him up until morning. That is what he has testified to here. Nor is there anything inconsistent here in this paper. When your honor comes to see what the log is, you will see in what he puts down there he locates the time exactly, as I am informed, when he perceived that the pilot was intoxicated, or thought so, which was after the collision—the Italian consul can tell. M'r Norris said the English of this paper was written down from some memoranda received from the Italian consul, a part written and a part verbal. That was the way the English of this paper was made. I want to show how M'r Magnus got that, but before I do that I want to have the log read.

The Witness, (examining the log and proceeding to make a translation of the same.) It says: About 7 p. m., they having come on board the tug-boat called the Virginia Ehrman, they then made the verbal contract to take the vessel to Baltimore for $48, and took the head of the vessel, the tug-boat; but they said they were neglectful under her tow.

697 About 10 p. m. the pilot ordered them to take in the *tow*-sails, and while in the act of doing this, they heard the whistle of the tug-boat, and the captain seeing the pilot did not pay attention to this signal, he himself went forward to see what this thing indicated—to see what was the indication of such rapid signals—what thing was indicated by this whistling several times; but just as he came forward he saw in the short distance one black object—black mast.

Then he commanded them once to put the helm a-starboard to avert a collision. This movement was made at once by the man at the wheel and with the help of the mate, but notwithstanding the prompt operation it was impossible to avoid the blow which was made with the mud-machine, which was there at anchor. Afterwards it sunk within about an hour.

In this circumstance we noticed that the pilot who was working on the top of the roof was perfectly drunk, in such a manner that he could hardly stand upon his feet. In fact, he went suddenly to throw himself on the sofa in the cabin on deck. The captain and the officers of the vessel called him several times on deck, but in vain. Instead of obeying, he went to sleep in the house on deck. The
698 captain gave notice of that to the captain of the tug-boat to take
himself the charge of piloting the vessel to Baltimore. The captain of the vessel then gave directions to the captain of the tug-boat to take care of the piloting the vessel to Baltimore, which was executed, and which was anchored at 1 o'clock a. m.

All this can be testified to by the captain of the tug-boat, because he took himself the command to anchor the ship, instead of the pilot. He gave command to the pilot instead of taking it himself, because he and the officers had never been in Baltimore before.

By M'r Wallis:

I want to know what this expression means, (referring to one or two Italian words which the witness had translated to him,) "helm a-starboard."

WITNESS. On the left. It means the head of the vessel to the left.

Q. What order would you give to put the helm to starboard?

A. We don't command like the English vessels. We command all opposite. For instance, if I wanted to command her to go with the head on the left, I would say, (giving an Italian expression.)

By M'r Marshall:

The order there is, as translated, "to put the head of the vessel to the left."

699 A. Yes, sir. We don't command by the tiller as in the English vessels. We command by the head of the ship all to the left, always with the head of the ship. That in an Italian order would be to put the head of the ship to the left.

Q. That order would be equivalent to saying, in English, put the helm to starboard?

A. Yes, sir.

By M'r Steele:

Q. What is the word? Doesn't "timone" mean helm?

A. Yes, sir.

By M'r Marshall:

It says here, "In this circumstance he noticed that the pilot who was working on the top of the house was perfectly drunk."

A. Yes, sir.

Charles Fobes recalled.

By M'r Steele:

I asked the question of the mate, and M'r Wallis asked it of the captain of this vessel, whether or not, in a conversation with you, they did not state to you that the pilot was drunk, and that the ship ought not to be responsible.

M'r **Marshall.** Didn't he testify to that on his examination in chief?

700 M'r **Steele.** I don't think he did. I will ask the witness. Did you testify to that?

Witness. I don't remember saying anything about that.

M'r **Marshall.** I will examine the stenographer's notes and see if I am not correct.

M'r **Steele.** While you are doing that, I will examine the witness in regard to some other matters.

Q. There were four anchors spoken of just now by a witness as having been grappled up. Will you state what hawsers of the anchors of the dredge were attached when she sunk, and when she was raised?

A. There was but one attached to her, which was a stern-line or a line attached to the stern-anchor.

Q. The witness Scott has spoken of four anchors being up. Where was the fourth? To what did it belong?

A. The fourth anchor was the anchor which the scows were moored to, which led off out of the channel. At night we kept our scows there and had a separate mooring-anchor, and in raising the dredge we had used the scows for that purpose to raise her. And when we got ready to come to town, we grappled the anchor and brought it up.

701 Q. I will ask you in reference to this conversation with the captain and mate of this vessel, had you a conversation, and when, and what did they say?

A. The day after the collision the captain, mate, and myself went on board the Italian ship to see the captain and mate, and they informed us, in broken English of course, that they were not responsible for the collision, and the pilot was drunk, and they took the tug-boat, and did not think they ought to be held at all responsible. Then they opened this little door and showed us where the pilot sat, and the position he was in, and showed us how he was acting, and they assisted him to get up into the berth to sleep. They put him into the berth, I think.

By M'r Marshall:

Q. Where was the barge lying that you speak of—I mean the scows?

A. They were aside of the dredge. We used the scows for raising the dredge.

Q. How far from the dredge—I mean the night of the 25th of March, where were they lying?

A. To the eastward. I should think a mile to the eastward.

702 Q. What did you say about the anchored scows at the time you raised the dredge? You were accounting for this fourth anchor M'r Scott spoke of. How do you bring in the anchor of the scows? I cannot understand that exactly.

A. That is the anchor the' grappled and brought to put down when he brought the dredge.

Mr. **Marshall.** He says when he raised the dredge there was four hawsers to the dredge with anchors attached to them.

A. They were not attached to the dredge until we grappled for them with the exception——

Mr. **Marshall.** He first stated one of them was parted, but afterwards corrected himself, and said they cut it themselves afterwards.

Witness. We wanted more lines. We had grappled one of the lines to use in raising the dredge.

Mr. Scott has testified there were four lines out from the dredge at the time they raised here.

A. No, sir; he said *he said* he grappled for four.

THE COURT. He expressly said they grappled for four.

The stenographer here was called upon to read the testimony as given by Mr. Scott, and he did so. 703

M'r Scott was then recalled and examined in regard to the matter in question as follows:

By M'r Marshall:

Q. You say the hawsers were not attached to the dredge when you raised the dredge?

A. No, sir.

Q. Where did you find the hawsers?

A. In the range of the anchors.

Q. Not attached to the dredge?

A. No, sir.

Q. None of them?

A. No, sir.

Q. None of them at all?

A. No, sir; we had to hunt for them.

Q. Where did you find the fourth one?

A. The fourth one, that I won't say because we were all in a hurry until we got hold of the fourth one. In regard to the fourth anchor, when I come to think of the thing, I remember it was attached to the dredge, and we jerked it off with the tug-boats.

Q. The fourth anchor was attached to the dredge?

704 A. Yes, sir, and we jerked it off with the tug-boat.

THE COURT. Gentlemen, do you propose to submit the case or argue it?

Mr. STEELE. As far as we are concerned we propose to submit the case.

Mr. MARSHALL. I propose to submit some remarks on behalf of the ship.

THE COURT. Very well. I am ready to hear argument.

The counsel then proceeded to argue the merits of the case before the court.

Depositions taken before Isaac Brooks, jun., United States commissioner for the Maryland district, on the part of John B. Curtis et al.

Deposition of N. H. Hutton.

My name is N. H. Hutton. I am an engineer in the employment of the United States, and was so on the 25th of March, 1874. I am assistant to Col. Craighill, who has charge of the deepening of the ship-channel to Baltimore. On the 25th of March, 1874, and prior, I had charge of the dredges used in deepening the channel, owned by Curtis, Forbes & Co., the contractors for said work. The dredges were under my immediate direction and charge, and subject to my orders. I directed the places where they were to work; the superintendent of the work moved them on the lines they were intended to work. My orders were given to the superintendent. 705

I knew the dredge Charles Forbes. M'r McCullough was the superintendent, to whom my orders were given. I was down there frequently when the dredges were at work and anchored. I can't say at what angles the quarter-lines were put out. I should hardly think those lines were put out under the direction of the superintendent. I wish to explain: The superintendent directs the location of the dredge as to work; that necessarily involves some direction of the quarter-lines, but the contractor can select the exact position for his anchors, according to his judgment, as to their relative efficiency in holding the dredge.

Directions were given by me in regard to retaining their positions at night. I gave orders that they should retain their positions at night unless under some special stress of circumstances, to prevent delay and loss of time consequent upon relocating the dredges every morning. I was examined in the district court of the United States in this case when tried below. The orders I gave were the orders of Col. Craighill. Col. Craighill holds himself responsible for all the orders I may give. As soon as the dredges of Curtis, Forbes & Co. commenced working they were under the control of the officers of the Government.

706 Cross-examined by Col. Marshall:

I saw where the dredge was sunk. The channel was intended to be excavated for the width of four hundred feet, and an average depth of twenty-four feet at mean tide. At that part of the channel where the dredges were placed on the afternoon of the 25th of March the channel had been excavated from the eastern side of it westwar'ly for a width of about two hundred & forty feet. The dredges were placed along the line of that part of the channel that remained to be excavated westwardly—the eastern side of the channel was marked by buoys.

From the line occupied by the dredges to the eastern side of the channel there was a depth of twenty-four feet of water for a width of about two hundred & forty feet. West of the line of dredges, and between that line and the contemplated westward boundary of the channel, according to my present recollection, the water was about nineteen feet deep for several hundred feet. At that place, the line of the dredges and the westward boundary of the channel, the bottom was soft, and I don't think there was any lumps there.

1st cross-interrogatory. How far to the westward of the line in which the dredges were stationed could a ship drawing between four-
707 teen *or* fifteen feet pass in safety going up the bay?

Answer. I should think several hundred feet to the westward at that part of the channel.

2. Cross-interrogatory. Suppose the dredge Charles Forbes was anchored on the line of which we have been speaking, and that her quarter-lines were carried out from about twelve feet abaft the front of the dredge down the bay, at an angle of about forty-five degrees with the axis of the dredge, and that those quarter-lines were about eight hundred feet long. In the first place would not one of those quarter-lines pass entirely across the excavated part of the channel, and would not the other extend beyond the water which you have mentioned as being nineteen feet deep, to the westward of the dredge?

Answer. I should suppose the quarter-line might extend across the excavated portion of the channel. I should think the other quarter-line would not extend beyond the water nineteen feet to the westward of the dredge.

3. Cross-interrogatory. Please state what would be the distance between the quarter-anchors, supposing the quarter-lines to go out as above.

Answer. Between eleven and twelve hundred feet.

Redirect by M'r Tagart:

708 I should say my recollection was not very clear on that point,

as to the angles at which these contractors ran the quarter-lines. I now state that my recollection is, that it was an angle of forty-five degrees with the axis of the channel. Orders were given to prevent obstruction of navigation by these lines, to lower the quarter-lines on signal being given from an approaching vessel, when it was necessary. A vessel could pass with safety when the lines were lowered.

Recross by Col. Marshall:

4. Cross-interrogatory. Would not contact with the lines be more probable the nearer the vessel attempts to pass to the dredge, even after the lines are slackened?

Answer. Yes; within certain limits.

Redirect by M'r Taggart:

What do you mean by "certain limits?"

Within one hundred feet or less; it depends upon the condition of the line.

N. H. HUTTON.

Subscribed & sworn to before me this 29th day of December, 1874.

ISAAC BROOKS, J'R,
U. S. Com'r.

Deposition of William J. McCullough.

709 My name is William J. McCullough. I was examined in this case when tried in the U. S. district court in the case of collision of Charles Forbes against the ship Agnese.

1. Interrogatory. State what was your employment on the 25th of March, 1874.

Answer. I was superintendent of the Craighill Channel, under the direction of the United States Government, and under the immediate direction and command of M'r N. H. Hutton, the assistant engineer of the Government.

2. Interrogatory. State what part you took in placing the dredges of Curtis, Forbes & Co., with a view of excavating the Craighill Channel, & if you placed them in position on the said 25th day of March, 1874?

Answer. My duties were to locate dredges in their proper places for excavating the said channel, and see that the work was done right and proper. I placed the dredges in position on the 25th of March, 1874. I mean I directed the positions they were to take, and laid out the lines upon which they were to work. I did not mean to say that I myself placed the machines.

3. Interrogatory. Please state whether or not you had superintendence of the dredges of Curtis, Forbes & Co. whilst they had been previously engaged upon the same channel.

710 Answer. I had.

4. Interrogatory. State at what angle the quarter-lines were run out when the dredges were at anchor and prepared to go to work.

Answer. They are generally supposed to be at forty-five degrees. We don't pay much attention to that; they attend to that themselves.

5. Interrogatory. Have you prepared a diagram of the way the quarter-lines were run out?

Answer. I have prepared & now file it, marked "Mc. No. 1."

6. Interrogatory. Do you know whether or not, upon the approach of vessels, that orders are given to slack the lines?

Answer. They generally are.

7. Interrogatory. If the lines are slacked, how close could a vessel come without danger to the dredge?

Answer. Properly slacked, a vessel could come within fifty feet. I mean a vessel drawing fourteen or fifteen feet of water. These dredges were under my control.

Cross-examined by M'r Marshall:

Each dredge had an inspector separate from the superintendent. The duty of the inspector was to carry out such orders as I might
711 give, and to keep account of the material excavated. It was his duty to remain on board the dredge during working-hours. Geor'e Mitchell was the inspector of the Charles Forbes.

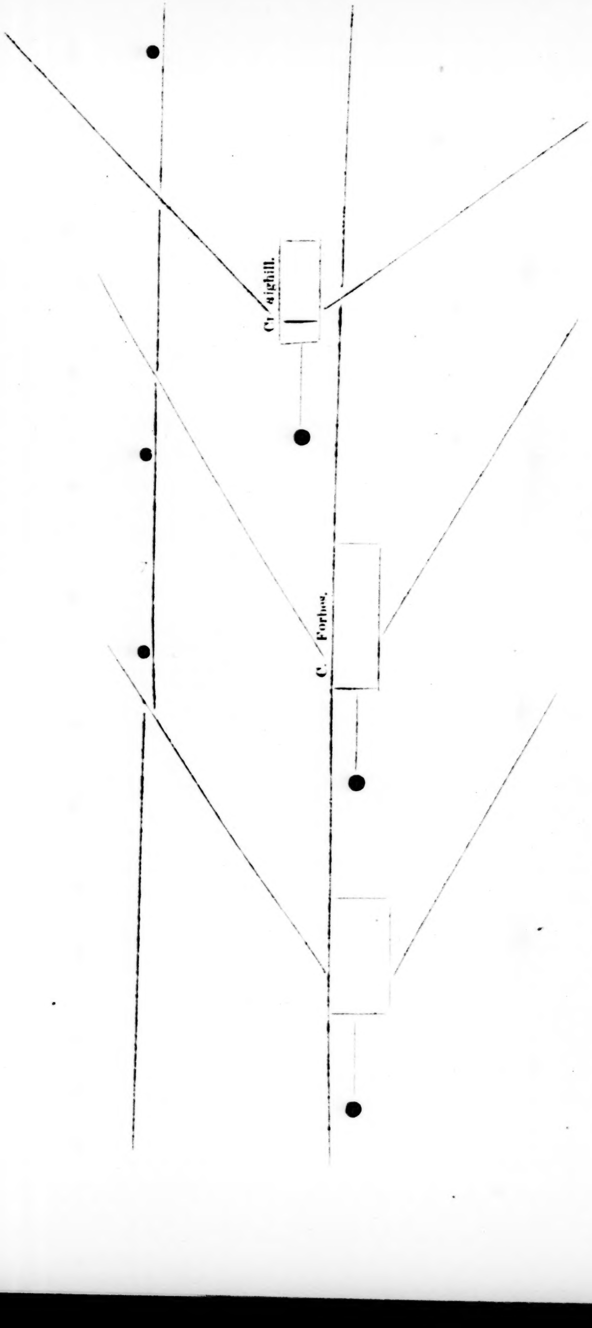
W'M J. McCULLOUGH.

Subscribed and sworn to before me this 29th day of December, 1874.

ISAAC BROOKS, J'R,
U. S. Com'r.

712

EXHIBIT MC. NO. 1.



713 **Depositions taken before Isaac Brooks, jun., United States commissioner for the district of Maryland, on the part of the ship Agnese.**

D. C. Landis.

My name is D. C. Landis. I was examined as a witness in the trial of this case in the district court. I am acquainted with the Craighill Channel. I do not know the width of the channel. Besides the Craighill Channel, there is a swash channel in which you can carry twelve feet safely; it does not do to risk over twelve feet; and the old ship-channel to the east of the Craighill, where you can carry between seventeen and eighteen feet safely. Coming up to Baltimore the old ship-channel would be about five miles longer than by the Craighill. In the old ship-channel you may have two hundred yards in width of seventeen feet water, but not always; it depends upon the tide.

1. Interrogatory. Suppose the Craighill Channel to be occupied by three dredges, lying one below the other, the dredges being at anchor, and having square ends about thirty-four feet wide; the Craighill Channel being at the place where the dredges were lying deepened to twenty-four feet, for a width of two hundred and forty feet to the east-
714 ward of the dredges; suppose the night to be a bright starlight night, the wind about a six or seven knot wind, and a vessel coming up to Baltimore in tow of a tug-boat, the vessel being two hundred and twenty feet long and twenty-eight feet in width; how near would you deem it prudent for the tug having the vessel in tow to pass to the dredges?

Answer. I deem it a very imprudent thing to undertake to pass at all under the circumstances.

2. Interrogatory. Under such circumstances as are above supposed, would there or would there not be danger if the tug should pass within thirty-five or forty feet of the dredges so anchored?

Answer. They could have passed if everything was clear; the danger was in undertaking to pass.

3. Interrogatory. Supposing a ship to be off of Annapolis, at the approach of such a night as I have described, and to be taken in tow at about 7½ o'clock, on the 25th of March, and suppose that the captain of the tug was aware that the three dredges of the kind above described were lying in the Craighill Channel, one above the other, what channel should the tug have taken, if she desired to proceed to Baltimore that night, or what would have been the prudent and proper course for the tug to take, assuming that her master was left at liberty to choose his own course?

715 Answer. If I had been the captain of the ship and knowing what the captain of the tug knew, I would have anchored the ship at once. Captains of vessels don't run the risk that captains of tug boats do; they are strangers to the positions of things they are going to pass in coming up.

4. Interrogatory. State from your experience in navigation, and knowledge of the Craighill Channel, whether or not there was any, and what, risk in attempting to tow such a vessel as I have described through said channel, under the circumstances described.

Answer. I have answered that by saying that I would have anchored if I had known that the dredges were in the channel; a calm night it would have been different, as the ship would have had no way but what the tug gave her.

Cross-examined by M'r Wallis:

1. Cross-interrogatory. Has a sailing-vessel in tow of a tug any the less ability to steer and keep her course because she has a good, fair, free wind and headway from it?

Answer. The faster a ship goes the wilder she is apt to steer. She is apt to steer wild, and in a narrow channel it is dangerous, be-
716 cause with her own velocity and that the tug gives her in a nar-
row channel the slightest inattention to the helm would give a long ship like that a sheer which they might not break before she struck the bank.

2. Cross-interrogatory. Then do you mean to say that a ship competently manned and officered, and with a competent pilot, is prevented from following the course of the tug having her in tow by the fact that she has a free and favorable wind, which gives her control of her own motions?

Answer. I mean to say so.

Redirect:

5. Interrogatory. Please explain how the wind rendered the navigation of the ship in the Craighill Channel, the night referred to, more difficult and dangerous, and rendered it more difficult to follow the tug closely.

Answer. The motion of the ship herself, if she had been steering without a tug, might have taken a sheer and run her in the bank or into a vessel.

6. Interrogatory. State whether or not on such a night, and suppose the ship to be moving at six or seven knots, the danger of collis-
717 ion with one of the dredges, lying as above described, would not
be increased in proportion as the tug towed the ship near to the dredge?

Answer. I think I have answered that question when I said that I would not have allowed the ship to have gone into the channel at all if I had known the dredges were there.

D. C. LANDIS.

Subscribed & sworn to before me this 28th day of December, 1874.

ISAAC BROOKS, J'R,
U. S. Commissioner.

Deposition of Scopinich Marc' Antonio Felciano di Antonio.

My name is Scopinich Marc' Antonio Felciano di Antonio. I am the witness who was examined in the district court. I acted as interpreter on that occasion. I have been in the Austrian mercantile service. I went to sea when I was fourteen years old. I sailed as a boy for two years before the mast; then one year as a sailor; then I went to school in Venice for two years; afterwards I went to sea again for one year. In 1861 I passed examination as chief mate, and went to sea again for two years as chief mate. In 1863 I passed the examination for
718 captain, and went to sea again as chief mate for one year. After
that I took command of the Austrian brig Tesso. I had command of that vessel for seventeen months. At that time I left the brig and took charge of the Austrian bark Dio Fili. I commanded her for twenty-three months. I left her in Dublin, Ireland, in the month of May or June, 1872, and then left Dublin for Baltimore, where I have been engaged in business since that time.

I was appointed captain from the port of Lusina. I passed my examination for captain in Venice in 1863, Venice at that time being a province of Austria. The certificate of my appointment is in the Italian language. I am familiar with the nautical terms used in navigating Italian vessels. During my whole experience as a sailor I was accustomed to receive and give all the orders in Italian. I have before me the log of the ship Agnese, which is in Italian.

1st interrogatory. Please turn to the log under date of March 25th, 1874, and give a literal translation of the entries of that day.

(Witness herewith files Exhibit No. 1, being a translation of the log for that day.)

2. Interrogatory. Please state the exact words of the order
719 given by the captain of the Agnese when he perceived a black mass,
as stated in the log.

Answer. " Dul che sulito comando di andare tutto col timone sulla sinistra."

3. Interrogatory. Please state the exact meaning of that order, and what would be the corresponding order in English to produce the same movement of the ship.

Answer. "Hard the rudder to the port." The corresponding in English would be "Hard starboard the helm." The stem of the vessel moves in the same direction the rudder moves. The Italian order has reference to the movement of the rudder; the English order to the movement of the tiller. Obedience to the order of the captain, above taken from the log, on any Italian or Austrian vessel, would take the vessel to port. I testify positively that the equivalent of that order is to starboard the helm.

Cross-examined by M'r Wallis:

1. Cross-interrogatory. Do you know in whose handwriting this log is, and when the entry of the 25th of March was made?

Answer. I do not know in whose handwriting the log is, and I don't know when the entry was made except by the date.

2. Cross-interrogatory. Do me the favor to give me the literal
720 meaning of the words on page 66 of the log, embraced in brackets,
beginning with "appena" and ending with "sinistra."

A. "Appena"—as soon as he came forward he saw at a small distance a black mass, whereupon immediately he ordered to go hard with the rudder to the left.

3. Cross-interrogatory. Then I understand you to say that the Italian words "sulla sinistra" mean "to the left.".

Answer. Yes.

4. Cross-interrogatory. Now oblige me by giving me the translation literally of the words on page 66 embraced in a parenthesis, commencing with "in" and ending with "coperta."

Answer. "In such circumstances, it was observed that the pilot, who was walking on the top of the house, was perfectly drunk, in such a manner that he could not hardly stand on his feet, and in fact he went immediately to lay down on the sofa in the small cabin on deck."

5. Cross-interrogatory. Go on and translate the following sentence, which is also placed in parenthesis.

Answer. "As well the captain as the officers on board called him many times on deck, but in vain; instead of obeying he went to sleep in the berth."

There is no difference between the steering apparatus and that

721 of other American vessels. The only difference is in the command.

MARCO ANTONIO SCOPINICH.

Subscribed & sworn to before me this 28th day of December, 1874.
ISAAC BROOKS, J'R,
U. S. Com'r.

EXHIBIT No. 1.

WEDNESDAY, 25 *March*, 1874.

At one o'clock a. m., under the order of the pilot, we set sail, the wind blowing from the SW.

We navigate under his vigilance and care; about noon, nearly calm. We navigate under all sails, with fine wind from S. SW. until half past seven p. m. time, when came alongside of our vessel a tug-boat named Virginia Am, making a verbal contract to tow the ship to Baltimore (in the stream) for the price of forty-eight (48) dollars. She took the hawser and navigated under her tow and under the vigilance and care of the acquainted pilot. About (10) ten o'clock p. m. the above-mentioned pilot ordered to lower down the topsails, and while we were executing this operation we heard the tug-boat whistle forward. The captain seeing that the pilot don't make any observation to this signal, he went forward himself to see what was indicated such repeated whistles more 722 times, but scarcely when he came forward he saw in a small distance a black mass, and then he instantly ordered to go with the rud'er hard to port for avoid the collision. This movement was executed instantly by the helmsman, and with the help of the chief mate, but with this prompt operation it was not possible to avoid the strike, which was made with the dredge-machine which was then at anchor.

About one hour after she sunk. In such circumstances we recognized that the pilot, which was walking on the top of the house, was perfectly drunk, in such a manner that he could not hardly stand on his feet, and in fact he want to lay down on the sofa in the house on deck.

As well as the captain and officers of the board call him on deck more times, but in vain. Instead of obeying he went to sleep in the b*i*rth. The captain gave notice to the captain of the tug-boat, telling him to take the charge, to pilot the ship unto Baltimore. How was executed. We anchored at one o'clock a. m. All this can testify the captain of the tug-boat, having taken himself the command for to anchor the ship, instead of the pilot, because neither the captain nor the officers was never in Baltimore.

With daylight we verify the damages caused to the ship, was 723 the cut-water perfectly broke, the jib-boo*n* scratched in such a way to be useless, lost the martingale, broke all the chains and stays belonging to the jib-boo*n*.

In truth of what is above.

(S'g'd) CAPTAIN A. PODESTA.

Deposition of Nicolo Gogga.

My name is Nicolo Gogga. I am captain of the bark "Sesti Dubrooracki," of Austria, of the port of Ragersa. I have been following the sea for twenty-five years. I have been an officer for eight years. I have always belonged to the Austrian marine. I have been in the habit of giving and receiving orders on board ship, mostly in Italian. I am familiar with Italian nautical terms. I know English nautical terms very little.

1. Interrogatory. Please look at the words on page 66 of the log, under date of March 25th, beginning with the words in brackets, beginning with the word "subito," and ending with "sinistra," on the same line, and state what course the ship would take if that order were executed ?

Answer. To the left.

2. Interrogatory. If you desired to put your ship to the left, or change her course towards the left, what order would you give in Italian ?

Answer. "A la sinistra."

724 3. Interrogatory. Are you positive that every Italian sailor would understand by the words of the order in the log, to which your attention has been called, that the ship's course was to be turned towards the left ?

Answer. I am positive.

Cross-examined by M'r Wallis :

1. Cross-interrogatory. Please say whether there is no difference in Italian between the order you have given as the proper one, viz, "a la sinistra," and the language used in the log, "timone sulla sinistra ?"

Answer. No; it is the same.

N. GOGGA.

Subscribed & sworn to before me this 29th day of December, 1874.

ISAAC BROOKS, J'R,
U. S. Commissioner.

Deposition of Raffaele Cilento.

My name is Raffaele Cilento. I have been following the sea as a sailor about twenty-four years. I was born in Naples and come from there. For three years, from 1850 to 1853, I was a boy on Italian vessels. From 1853 to 1858 I served on English & American vessels. 725 From 1858 to 1860 I went to a navigation-school at Naples, and received my certificate as chief mate in 1860. I served as chief mate from 1860 to 1868 on Italian vessels.

In 1868 I staid ashore at a navigation-school, about a year, to qualify myself as captain, and received my certificate as such in about a year. Since then I have served as chief mate on board Italian ships, until last April, 1874, when I left the Italian bark Assumpta, at the port of Baltimore.

1. Interrogatory. Are you well acquainted with the language in which orders are given in Italian ships ?

Answer. I am.

2. Interrogatory. Please look at the words in the log, at page 66, beginning with the word "subito" and ending with the word "sinistra," on the same line, and state first, as well as you can, what those words mean in English, and then state what direction the execution of such an order in an Italian ship would give to the vessel.

Answer. "Soon he commanded to put the rudder all down on the left." If such an order were obeyed on an Italian ship, she would go to the left.

3. Interrogatory. Could any order be given in Italian which

726 would cause the ship to steer more quickly to the left and more to the left than the one in the log?

Answer. No, sir; the language is equivalent to the English "hard to the left"—all that can be done to turn her to the left by steering.

4. Interrogatory. Please explain the difference between the orders in Italian and English in steering a vessel.

Answer. They differ a good deal from each other, because the Italian order refers to the rudder, while the English order refers to the tiller. When an Italian wants to go to starboard, he orders the rudder to be put to starboard; when to port, he orders the rudder to be put to port. When an Englishman wants to go to the starboard, he gives the order to port the helm, and when he wants to go to port, he gives the order "starboard the helm."

Cross-examined by M'r Wallis:

1. Cross-interrogatory. Does not the Italian word "timone" mean what is called in English the helm, as well as the rudder?

Answer. No, sir; the rudder is "timone;" helm is "barra," where I come from. In Genoese they call helm "manovella."

2. Cross-interrogatory. Is there no difference between "a la sinistra" and "sulla sinistra?"

727 Answer. No; there is not.

RAFFAELO CILENTO.

Subscribed & sworn to before me this 29th day of December, 1874.

ISAAC BROOKS, J'R,
U. S. Com'r.

Deposition of James E. Griggs.

My name is James E. Griggs. I am captain of the ice-boat Maryland. I have been a pilot on the Chesapeake Bay since 1840, with the exception of five years, during which time I have been engaged as captain of the ice-boat Maryland. I have been towing vessels in and out of Baltimore during the time she has been running. I consider myself familiar with all the channels navigated by vessels in the Chesapeake Bay. I am acquainted with the Craighill Channel. I can't say that I know the exact width of it. I have towed vessels through that channel.

1st. Interrogatory. Suppose a ship two hundred and twenty feet long and twenty-eight feet wide, drawing about fourteen or fifteen feet water, lying off of Annapolis, be taken in tow by a tug, about 7½ o'clock p. m., in the 25th of March, to be taken to Baltimore; suppose that the captain of the tug was aware that three dredges, of the character described in the 1st interrogatory to Capt. Landis, were lying in the Craighill
728 Channel, one above the other, the lowest dredge being about two miles from the lower end or entrance of the channel, the wind being from six to seven knots and the night a bright starlight night; state whether or not, under the circumstances above described, it would, in your opinion, be safe to undertake to tow the vessel through the channel, or what, in your opinion, would have been the proper course for the master of the tug to have pursued under the circumstances, supposing that he had discretion in the matter, the wind being favorable and about six or seven knots?

Answer. My opinion of the matter is this: If I intended to tow the ship to Baltimore that night, I should have towed her up the old ship-channel; if not, I would have brought her to an anchor, and have waited till daylight to have towed her through the Craighill Channel.

2. Interrogatory. Please state whether or not the attempt to tow the ship through the Craighall Channel that night, the dredges lying as supposed in the previous question, and the other circumstances being as therein supposed, was prudent, or whether the same was attended with any particular risk, in your judgment.

Answer. I don't think it was prudent, and there certainly was great
risk to the ship and to the dredges in the channel that night, in
729 undertaking to tow her through the channel that night. Lying
as the dredges do, it takes all a man's skill and judgment to pass
them in the day-time, without undertaking to pass them during the night.

3. Interrogatory. State what the particular risk was in undertaking to tow the vessel through that channel that night.

Answer. In the first place, it is a channel that you have to steer very minutely through, and more so with the machines lying as they do generally. You are either liable to run ashore or run into them.

4. Interrogatory. Would not the danger of collision under such circumstances be increased by towing the ship near the dredge? Are not such ships as that above described, under the circumstances mentioned in question, at all times liable to sheer, either from striking lumps at the bottom of the channel or other causes?

Answer. The nearer a ship is towed to an object the more risk there is, especially at night. If a ship is badly steered, she will sheer, or if she strikes a lump at the bottom she will sheer. A boat is not expected to strike a lump at the bottom.

I saw the dredge three or four days after she was sunk. A vessel
drawing between fourteen and fifteen feet could not have passed
730 more than eighty feet to the westward of where the dredge was
lying. I sounded there when I went down. I was going down
with the steamer Nestorian, and I made soundings to see if she should go the eastward or westward of the machine. She could have gone fifty feet to the east of the machine, in my judgment. I took the Nestorian to the westward. I took her down in the day-time. They don't go down at night.

Cross-examined by M'r Wallis:

1. Cross-interrogatory. Why is it that you have to steer minutely through the Craighill Channel?

Answer. The report is that the channel is two hundred and odd feet wide, and if we don't run a certain line we hit the lumps in the channel. There is difficulty in running that line, either by day or night. At night you cannot see the marks.

2. Cross-interrogatory. Are there not lights fixed giving the line directly through the axis of the channel?

Answer. No, sir. Those lights will not run that channel properly.

3. Cross-interrogatory. Then do you mean to say that they were imperfectly located by the Government engineers?

Answer. I have nothing to say about the engineers; but I do
731 mean to say that I have run that channel as much as anybody,
and running by those lights will not give you the best water.

4. Cross-interrogatory. Is there much risk of a ship's sheering if she is carefully steered?

Answer. That depends upon circumstances. If a ship is moving slowly three or four knots, she can be steered more steadily than she can going at seven knots.

5. Cross-interrogatory. Is not sheering commonly the result of inattentive steering?

Answer. Not in all cases. Some vessels you cannot steer without their sheering.

6. Cross-interrogatory. Does not any man who is in the habit of steering such vessels learn to understand their peculiarities, and provide against them?

Answer. No, sir; not in all cases. I have been on vessels that men have been on board of for a year, and they could be steered steadily; by men I mean competent helmsmen.

Redirect:

6. Interrogatory. Will you please state, if you know, what is the meaning of a whistle from a tug when heard by the pilot on the ship being towed, and state whether the pilots on vessels coming in or going out of Baltimore are signalled by whistles from the tug?

732 Answer. I don't know of anything that a tug-boat could communicate to me by a whistle if I were the pilot on board of the ship being towed. I don't know of any signal by whistles in coming in or going out of Baltimore. If there is any, I am unacquainted with it.

7. Interrogatory. How does the tug communicate with the pilot when it becomes necessary?

Answer. He generally hails the ship and tells us what he wants us to do.

Recross by M'r Wallis:

7. Cross-interrogatory. If you were in tow of a tug, and you heard several sharp quickly-repeated whistles from the tug on board your ship, would you not think that they meant nothing, and would you feel justified in paying no attention to them?

Answer. That would depend upon circumstances. If it was day-time, and I could see no approaching steamer, I would think he was attracting my attention, but if it was night, I would expect the hail before I should hear the whistle, if he wanted me to do anything.

8. Cross-interrogatory. Do you mean to say that if you had heard at night such whistles as I have described, you would not look out to see if anything was ahead, and would not pay any attention to the whistle unless you were hailed? 733

Answer. I am always looking out ahead at night when I am in charge of a vessel. Such whistles are often salutes from one boat to another. I would not pay any particular attention to the whistles unless hailed.

Redirect:

8. Interrogatory. Do such whistles as those described in the cross-interrogatory communicate anything to the pilot, as to what the tug desires him to do upon hearing them, with reference to the ship?

Answer. Not until he hails and communicates his orders.

JAMES E. GRIGGS.

Subscribed & sworn to before me this 29th day of December, 1874.

ISAAC BROOKS, J'R,
U. S. Com'r.

Deposition of Francis M. Howes.

My name is Francis M Howes. I am master of the steamship Will-

iam Lawrence, of the Boston line of steamers. I have been sa'ling out of the port of Baltimore for about seventeen years. I am acquainted with and have used the Craighill Channel. The officers, captain, first and second mates, are licensed pilots on the W'm Lawrence. Our
734 licenses come from the United States inspectors of steamers.
We have never employed the Baltimore pilots. The W'm Lawrence is about two hundred feet long on the water-line, thirty-five feet wide, and draft ordinarily fourteen or fifteen feet. I have seen the dredges of Curtis, Forbes & Co. engaged in dredging the Craighill Channel last spring.

1. Interrogatory. Suppose three of those dredges to be lying in the Craighill Channel, the lowest one about two miles above the southern entrance of the channel; the second one from three-quarters of a mile to a mile above, and a little further to the west; the third about a mile above the middle one, and about as far east as the first. Suppose a sailing-vessel 220 feet long, twenty-eight feet wide, drawing about fourteen or fifteen feet of water, lying off Annapolis, taken in tow on the 25th of March, at 7½ o'clock p. m., by a tug-boat. Suppose the master of the tug was aware that the dredges were lying in the channel as above described, & that he did not communicate that fact to those on board of the ship. The night was clear, starlight, the wind favorable to the vessel coming up, the ship being nearly before the wind, and the wind being about from six to seven knots. Suppose, further, that the master of the tug has discretion in selecting the channel by which
735 to bring the ship to Baltimore. What would be his duty under
these circumstances, and what would have been the safest course for him to pursue in bringing the ship to Baltimore?

Answer. What his duty would have been depends upon the captain, his experience, the means at hand to handle & tow a ship.

2. Interrogatory. Answer the foregoing question with this addition: Suppose the ship to be a foreign vessel, officers and men all foreigners, none of whom had ever been to Baltimore before.

Answer. I see no difficulty in his taking the Craighill Channel; that is, supposing him to be a man of experience. I consider it the plainest channel. I should have selected the Craighill Channel in his case.

3. Interrogatory. Would you have selected the night for passing through the channel?

Answer. I would have taken the ship up that night, and not have waited for morning, under the circumstances.

4. Interrogatory. Please state whether, under the circumstances mentioned, with such a wind and night, the risk of accident was or was not enhanced by the fact that the master of the tug did not communicate to the ship the fact that the dredges were lying in the channel.

736 Answer. I think it was not enhanced.

Cross-examined by Col. Wallis:

No questions asked.

Redirect by Col. Marshall:

5. Interrogatory. Supposing the vessel I have described in the former question, in tow of this tug, to have such sails sets, with the knowledge and approval of the captain of the tug, as would give her from four to five knots without the tug, would it or not, in your judgment, be safe or prudent for the tug, with a hawser forty five or fifty fathoms, to pass within thirty-five or forty feet of one of these dredges lying at anchor that night?

Answer. I don't know why it would not be safe, if the ship steered well and there was plenty of water.

6. Interrogatory. Is not your experience in the navigation of the Craighill Channel obtained from navigating that channel by steam, & have you any experience in the navigation of it by sailing-vessels?

Answer. I answer "yes" to the first part of the question, and "no" to the last.

Cross-examined by M'r Wallis:

737 1. Cross-interrogatory. Does not your experience as a seaman
extend to the navigation of sailing-vessels as well as steamers?

Answer. It does. I have never commanded a sailing-vessel. I have been before the mast on sailing-ships. I have never been an officer on a sailing-vessel, but I have offered the position of second officer of a ship of two thousand tons. I have been following the sea for about twenty-four years. I was offered the position of second officer, above spoken of, fourteen years ago.

2. Cross-interrogatory. Have you passed through the Craighill when any of the dredges were anchored there?

Answer. I have.

3. Cross-interrogatory. Had you any difficulty in passing them?

Answer. I never had any serious difficulty, but rather more difficulty in passing through the channel than if they had not been there.

4. Cross-interrogatory. In what did the difficulty consist?

Answer. It consisted in the lines of the dredging-machines being spread across the channel; it required me to keep well away from them, as far as the channel would allow me to, to enable my wheel—my screw,
I mean—to cross their lines. My knowledge of the channel is
738 this: On one side it is marked by buoys; the other side is not
marked. I suppose the channel to be two hundred & fifty to three hundred feet wide at present. These dredging-machines usually slacken their lines when I pass. I frequently slow my engines when I go close to them, to avoid picking up their lines with my wheel.

Redirect:

7. Interrogatory. Do I understand in passing these dredges, when you have the choice of your own course, you consider it safest to pass as far from them as the limits of the channel, as those limits are known to you, will permit?

Answer. I do.

Recross by M'r Wallis:

5. Cross-interrogatory. When you use the word "safest," in reply to the last question, do you not mean safe from the risk of picking up their lines?

Answer. Yes; that is my meaning.

Redirect:

8. Interrogatory. Is there not more danger of the stem of the vessel striking the line of the dredge, the nearer the vessel is to the dredge, supposing the vessel to be ascending the channel, and the anchor-lines
of the dredge to angle or spread out down the channel on each
739 side of the dredge at an angle of about forty-five degrees with
the axis of the dredge?

Answer. Yes; there is more danger, of course.

Cross-examined by M'r Taggart, for libellants:

1st. Cross-interrogatory. Be good enough to state whether you have observed the position of the quarter-lines of the dredges when at anchor preparatory to going to work; and, if so, at what angle were they put out?

Answer. At various angles; from right angles to the axis of the dredge to from thirty to forty degrees to the axis of the dredge.

F. M. HOWES.

Subscribed & sworn to before me this 29th day of December, 1874.

ISAAC BROOKS, J'R,
U. S. Commissioner.

Deposition of James W. Johnson.

My name is James W. Johnson. I was last master of the steamer Liberty, running from Baltimore to New Orleans. I have been sailing from the port of Baltimore, on sailing-vessels and steamers, since 1853; about six years of which time I have been acting as master. I am acquainted with the approaches to Baltimore from below. I am not well acquainted with the Craighill Channel. I never used that channel my-
self. I have come through it with a pilot on the Liberty; the
740 Liberty was about two hundred and twenty-seven feet long. I
used the swash channel for light-draft, and the old ship-channel. We always carried a pilot with heavy-draft vessels in the old ship-channel. We did not, as a general thing, have a pilot when coming through the swash channel. The reason I used a pilot in coming through the Craighill Channel was that I did not know the channel myself, and the pilot is presumed to have charge of the ship. I don't recollect how often I have passed through the Craighill Channel.

1. Interrogatory. Suppose a ship 220 feet long and 28 feet wide, drawing about fourteen or fifteen feet of water, coming up the bay off of Annapolis, about the 25th of March; she is taken in tow by a tug, about 7½ o'clock p. m., off of Annapolis; suppose that the captain of the tug was at the time aware that there were three dredges, with square ends about thirty-four feet wide and about eighty-six feet long, lying at anchor in the Craighill Channel, one above the other, the lowest one being about two miles above the lower entrance of the channel; suppose the wind to be favorable, and about six or seven knots, the night a clear, starlight night, and then suppose the master of the tug has the discre-
tion to select the channel by which he will take the vessel; please
741 state whether, under such circumstances, it would or it would
not be safe and prudent to undertake to tow such a ship through the Craighill Channel, and what, under the circumstances, in your judgment, it would have been the duty of the master of the tug to do.

Answer. It would not be prudent. In my judgment, the master of the tug should have gone by the ship-channel, or have waited till daylight.

2. Interrogatory. Please state whether you have passed the dredges engaged in dredging the channel belonging to Curtis, Forbes & Co. last spring, and, if you have, state how those dredges usually anchored, and what had to be done to enable other vessels to pass them.

Answer. I have passed dredges, but I don't know whether they were Curtis, Forbes & Co.' dredges or the others. They usually were anchored and had lines running to the spiles. When I passed they slacked the lines to prevent them getting foul of the propellor. I don't know

Answer. I don't know why it would not be safe, if the ship steered well and there was plenty of water.

6. Interrogatory. Is not your experience in the navigation of the Craighill Channel obtained from navigating that channel by steam, & have you any experience in the navigation of it by sailing-vessels?

Answer. I answer "yes" to the first part of the question, and "no" to the last.

Cross-examined by M'r Wallis:

737 1. Cross-interrogatory. Does not your experience as a seaman extend to the navigation of sailing-vessels as well as steamers?

Answer. It does. I have never commanded a sailing-vessel. I have been before the mast on sailing-ships. I have never been an officer on a sailing-vessel, but I have offered the position of second officer of a ship of two thousand tons. I have been following the sea for about twenty-four years. I was offered the position of second officer, above spoken of, fourteen years ago.

2. Cross-interrogatory. Have you passed through the Craighill when any of the dredges were anchored there?

Answer. I have.

3. Cross-interrogatory. Had you any difficulty in passing them?

Answer. I never had any serious difficulty, but rather more difficulty in passing through the channel than if they had not been there.

4. Cross-interrogatory. In what did the difficulty consist?

Answer. It consisted in the lines of the dredging-machines being spread across the channel; it required me to keep well away from them, as far as the channel would allow me to, to enable my wheel—my screw,
I mean—to cross their lines. My knowledge of the channel is
738 this: On one side it is marked by buoys; the other side is not
marked. I suppose the channel to be two hundred & fifty to three hundred feet wide at present. These dredging-machines usually slacken their lines when I pass. I frequently slow my engines when I go close to them, to avoid picking up their lines with my wheel.

Redirect:

7. Interrogatory. Do I understand in passing these dredges, when you have the choice of your own course, you consider it safest to pass as far from them as the limits of the channel, as those limits are known to you, will permit?

Answer. I do.

Recross by M'r Wallis:

5. Cross-interrogatory. When you use the word "safest," in reply to the last question, do you not mean safe from the risk of picking up their lines?

Answer. Yes; that is my meaning.

Redirect:

8. Interrogatory. Is there not more danger of the stem of the vessel striking the line of the dredge, the nearer the vessel is to the dredge, supposing the vessel to be ascending the channel, and the anchor-lines
of the dredge to angle or spread out down the channel on each
739 side of the dredge at an angle of about forty-five degrees with
the axis of the dredge?

Answer. Yes; there is more danger, of course.

Cross-examined by M'r Taggart, for libellants:

1st. Cross-interrogatory. Be good enough to state whether you have observed the position of the quarter-lines of the dredges when at anchor preparatory to going to work; and, if so, at what angle were they put out?

Answer. At various angles; from right angles to the axis of the dredge to from thirty to forty degrees to the axis of the dredge.

F. M. HOWES.

Subscribed & sworn to before me this 29th day of December, 1874.

ISAAC BROOKS, J'R,
U. S. Commissioner.

Deposition of James W. Johnson.

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Liberty, running from Baltimore to New Orleans. I have been sailing
from the port of Baltimore, on sailing-vessels and steamers, since 1853;
about six years of which time I have been acting as master. I am acquainted
with the approaches to Baltimore from below. I am not well
acquainted with the Craighill Channel. I never used that channel myself.
I have come through it with a pilot on the Liberty; the
740 Liberty was about two hundred and twenty-seven feet long. I
used the swash channel for light-draft, and the old ship-channel.
We always carried a pilot with heavy-draft vessels in the old ship-channel.
We did not, as a general thing, have a pilot when coming through
the swash channel. The reason I used a pilot in coming through the
Craighill Channel was that I did not know the channel myself, and the
pilot is presumed to have charge of the ship. I don't recollect how often
I have passed through the Craighill Channel.

1. Interrogatory. Suppose a ship 220 feet long and 28 feet wide, drawing
about fourteen or fifteen feet of water, coming up the bay off of Annapolis,
about the 25th of March; she is taken in tow by a tug, about
7½ o'clock p. m., off of Annapolis; suppose that the captain of the tug
was at the time aware that there were three dredges, with square ends
about thirty-four feet wide and about eighty-six feet long, lying at anchor
in the Craighill Channel, one above the other, the lowest one being
about two miles above the lower entrance of the channel; suppose the
wind to be favorable, and about six or seven knots, the night a clear,
starlight night, and then suppose the master of the tug has the discretion
to select the channel by which he will take the vessel; please
741 state whether, under such circumstances, it would or it would
not be safe and prudent to undertake to tow such a ship through
the Craighill Channel, and what, under the circumstances, in your judgment,
it would have been the duty of the master of the tug to do.

Answer. It would not be prudent. In my judgment, the master of the tug should have gone by the ship-channel, or have waited till daylight.

2. Interrogatory. Please state whether you have passed the dredges engaged in dredging the channel belonging to Curtis, Forbes & Co. last spring, and, if you have, state how those dredges usually anchored, and what had to be done to enable other vessels to pass them.

Answer. I have passed dredges, but I don't know whether they were Curtis, Forbes & Co.' dredges or the others. They usually were anchored and had lines running to the spiles. When I passed they slacked the lines to prevent them getting foul of the propellor. I don't know whether it was necessary for them to slack the lines for other vessels, but for me it was.

3. Interrogatory. Taking a vessel of the size mentioned in the former question, on such a night as therein described, and such a wind, and supposing the vessel, with the knowledge and approval of the
742 captain of the tug, to have such of her sails set as would with the wind give her from five to six knots without the tug, would it or not, in your judgment, be safe or prudent for a tug, with a hawser of from forty-five to fifty fathoms, towing such a ship, to pass within thirty-five or forty feet of a dredge anchored in the way *the way* you have described?

Answer. I would not.

Cross-examined by M'r Wallis:

1st. Cross-interrogatory. Please state why there would be any greater difficulty in going up the Craighill Channel by night than by day, if the dredges, supposed to be lying at anchor in the channel, all had their lights bright and properly set, and the Government lights at both ends of the channel were properly set and lighted to enable you to steer directly through the axis of the channel. I mean assuming the night to be clear and starlight, and without haze, storm, or heavy, unfavorable weather of any sort; and suppose, further, that the ship had on board a competent and experienced pilot.

Answer. Because you can see better in the day than at night.

2. Cross-interrogatory. Then you think you can see a tug by
743 day better than you can see a bright regulation-light by night?

Answer. You can see the tug in the day further than the light at night.

3. Cross-interrogatory. What difference does it make that you can see the tug further by day than the light by night, if you can see the light far enough for all purposes of steering?

Answer. I would make no difference.

4. Cross-interrogatory. I understood you to say, did I not properly, that when you take a pilot on board of your ship the pilot has charge of her?

Answer. The pilot is presumed to have charge of her.

5. Cross-interrogatory. If, in passing the dredge in the case supposed by Col. Marshall, the tug passed from thirty-five to forty feet on the western side of the dredge, and passed perfectly clear, and the ship in tow was still further to the west by the whole width of the tug, what was to prevent the ship, if properly steered, from passing clear also?

Answer. Nothing, if she could be properly steered.

Redirect:

4. Interrogatory. Are not all ships liable to take a sheer, and is not the effect of such sheer in changing the course of the vessel before it can be corrected increased by the rate of speed at which the ves-
744 sel is going?

Answer. I answer yes to both questions.

Recross by M'r Wallis:

6. Cross-interrogatory. I have no nautical experience myself, but in a book I hold in my hands, called Mariners' Dictionary, I find it stated that sheering "may be occasioned by ships being difficult to steer, but more frequently arises from the negligence or incapacity of the helmsman;" be good enough to tell me if that agrees with your experience.

Answer. It does.

JA'S JOHNSON.

Subscribed & sworn to before me this 29th day of December, 1874.

ISAAC BROOKS, J'R,
U. S. Com'r.

And afterwards, to wit, on the 6th day of February, in the year of our Lord, 1875, the following opinion was filed in the circuit court here, to wit:

Opinion of court.

Cross-appeals.

JOHN B. CURTIS ET AL.
vs.
THE STEAM-TUG VIRGINIA EHRMAN & SHIP Agnese,

745 And

THE SHIP AGNESE, APPELLANT,
vs.
JOHN B. CURTIS ET AL.

I agree with the district judge in this case in thinking the Agnese in fault, and that by bad steering, the result of drunkenness on the part of the pilot, or from the want of a proper look-out, causing her to mistake the lights of the dredge for those of the tug which had her in tow, she was the immediate cause of this collision. But in my judgment the tug was by its mismanagement a contributor to the result.

In March, 1874, the Italian vessel Agnese arrived off the port of Annapolis, bound for Baltimore, in charge of a licensed pilot, whom she took on her arrival at the capes of Virginia, the afternoon before the collision hereinafter referred to. Her captain and crew being ignorant of the navigation of the Chesapeake, employed a tug to tow her up. The captain of the tug told the pilot he was going through the Craighill Channel, and as the wind was nearly due south, a little east, and the course almost due north, it was agreed that the vessel should help with 746 her sails. With the assistance of the tug & the wind, her speed was from eight to ten miles per hour.

The Craighill Channel is a proposed excavation to the depth of twenty-four feet of a strip of the bottom of the bay four hundred feet wide, in a line almost due south from the end of the Brewerton Channel for the distance of several miles.

The Government of the United States, whose officers have the work in charge, have completed the excavation proposed, for the whole length of the channel, to the width of two hundred feet. This excavation embraces all that portion of the channel which lies east of the centre line or axis.

To complete the other half of the proposed work they had in employ three dredging-machines, the first of which, coming north, rested with its starboard side immediately on the axis of the channel, and extended forty-three feet east of that line. The width of the dredge being forty-three feet, upon a line drawn parallel to the starboard side of the first dredge, which was the line of the centre of the proposed channel, and a quarter of a mile to the north of it, was placed the second dredge, which bring its port side forty-three feet from the axis of the channel. This

was the dredge with which the collision took place. These dredges
747 were securely moored and had superior lights burning and good
look-outs, who were all alert when the accident occurred.

When the tug with the Agnese in tow reached the southermost dredge, going at the rate of eight or ten miles per hour, she passed within thirty-five or forty feet west of it.

In a minute and a half, at this rate of speed, or two minutes, if she continued her northerly course, which was the course of the channel, she would have grazed the side of the second dredge.

Now, it will be observed that the tug was not in the Craighill Channel as excavated at all. The part of the channel completed was immediately east of the dredges & two hundred feet wide. In this part, if she was going through the Craighill Channel, as her captain told the capt. & pilot of the Agnese she was going, she ought to have been.

And had she so taken her tow into a channel two hundred feet wide, at the speed it was going, and run within thirty-five or forty feet of these dredges, which were plainly seen, with a tow-line out of three hundred feet, she would, in my judgment, have been greatly at fault.

The Agnese is a vessel two hundred and twenty feet long, and changes her course much less readily than the tug; she had been instructed to
steer after the tug's lights, but when the tug perceived what it
748 manifestly did not know at first, that the second dredge was not
on the same line as the first, but forty-three feet west of it, while the slightest turn of the tug's wheel would send her forty feet to the west of it, the Agnese could by no means move so rapidly.

The slightest deviation from nice steering, a change in the current unfor'seen, would have been likely to produce this result. If a tug having a vessel in tow unnecessarily takes her into a place where nothing but the most accurate knowledge of seamanship and expert management can prevent collision and damage, it must, at least, share the loss.

But, as I have said, the tug was not in the Craighill Channel, but was west of it, and even the carelessness and recklessness of those in charge of the tug cannot be excused.

It is shown by the evidence, that for three hundred feet west of the line upon which these dredges were, there was abundant water for a ship of the Agnese's draft.

Why, under these circumstances, should the tug approach these
dredges within the distance of forty-five feet?
749 If the capt. of the tug knew there was that much water west of
the dredges, he should have given them a much wider berth. If he did not know it, he should not have undertaken to tow this large vessel three hundred feet behind him, out of the excavated channel.

Coming along behind the tug at this great speed, when within a hundred or two feet of the second dredge, according to the testimony of the witnesses, the Agnese made a sheer to starboard, from what reason they do not know, & ran into the dredge and sunk it.

It required a slight sheer to cause the collision, for the tug passed west of the second dredge, or was about to, at the distance of thirty-five or forty feet, and the Agnese was steaming immediately after her. In my judgment she had no business to tow her, with so much sea-room, into such close proximity, and must share the loss.

It does not excuse the Agnese that the pilot, who had charge of her, was drunk. If the fact were so it was the duty of the capt. of the Agnese to know it, and not to permit his vessel to be navigated by so incompetent and untrustworthy a person. He should have stop'ed, anchored, and waited to employ another pilot.

If the fact were so, and he did not know it, he was wanting in his attention to duty.

750 It was urged in the argument that the dredge was anchored in an improper place, but I can see no reason for so thinking. The Craighill Channel does not differ from any other part of the bay, except by reason of what has been done to the eastern half of it, a strip two hundred feet wide.

They certainly had a right to anchor in that part of the waters of the Chesapeake before such 200-feet channel had been opened, and there was more reason for their being there on this occasion, as they were engaged in completing the proposed channel to its full width of four hundred feet.

If it is proposed to insist on the exceptions to the master's report in this case, I had rather hear argument about them, before deciding upon them.

Decree.

JOHN B. CURTIS, CHARLES FOBES, & GEORGE Fobes
vs.
THE STEAM-TUG VIRGINIA EHRMAN AND THE ship Agnese.

and

THE CLAIMANTS OF THE SHIP AGNESE
vs.
JOHN B. CURTIS, CHARLES FOBES, AND GEORGE Fobes.

751 Cross-appeals from a decree of the district court of the United States in and for the district of Maryland, in admiralty.

In the circuit court of the United States in and for the district of Maryland, in admiralty.

Decree.

These appeals came on to be heard together, and the libel, answers, proofs, and other proceedings in the district court of the United States for the district of Maryland, and the proofs taken to be used in the circuit court, with all other proceedings therein, having been read and considered, and the arguments of the counsel of the respective parties having been heard, and it appearing to the court here, for the reasons assigned in its opinion filed in these cases, that there is error in both the decrees of the said district court passed in these causes, for which the same should be reversed, this court doth now proceed to render such decree as in accordance with its said opinion should have been rendered by the said district court in the premises.

It is thereupon, this 6th day of February, 1875, adjudged, ordered, and decreed by the circuit court of the United States in and for the district of Maryland, that the first decree of the said district court, so far as the same decrees that the libel be dismissed, with costs, as against the steam-tug Virginia Ehrman, be, and the same is, hereby reversed. 752

And it is further adjudged, ordered, and decreed that said decree of said district court, so far as the same decrees that the libellants recover the sum of twenty-four thousand one hundred and eighty-four dollars and fifty-seven cents and costs against the said ship Agnese be, and the same is, hereby reversed.

And it is further adjudged, ordered, and decreed that the said decree of said district court, so far as it decrees that the libellants have sustained damage to the said amount of $24,184.57, with interest from the 27th October, 1874, and so far as said decree confirms the report of Robert L. Rogers, esq., commissioner, as to the amount of damage sustained by said libellants, and so far as the said decree disallows the exceptions filed to said report, be and the same is hereby affirmed, and said libellants are hereby decreed to be entitled to recover said sum of twenty-four thousand one hundred and eighty-four dollars and fifty-seven cents, in manner and form as hereinafter decreed.

But it appearing to this court that the damages sustained by the libellants in the premises was occasioned by the fault both of the ship Agnese and of the tug Virginia Ehrman in such wise that the same should be borne equally by said ship and by said tug, it is therefore adjudged, ordered, and decreed that the libellants, John B. Curtis, Charles Fobes, and George Fobes do recover against the said 753 ship Agnese, whereof Cerruti C. Allessandro & others are claimants, the sum of twelve thousand and forty-two dollars and twenty-eight and one-half cents, ($12,042.28½,) with interest thereon from the 27th day of October, 1874, being one-half the amount of damage sustained by said libellants by reason of the collision mentioned in the proceedings.

And it is further adjudged, ordered and decreed, that said libellants recover against the said steam-tug Virginia Ehrman the like sum of twelve thousand and forty-two dollars and twenty-eight and one-half cents, ($12,042.28½,) with interest thereon from the 27th day of October, 1874.

And it is further adjudged, ordered, and decreed, that the said libellants do recover against the said ship Agnese the marshal's costs for her seizure & custody, and one-half of the whole amount of other costs incurred by said libellants in prosecuting their suit in the said district court as taxed by the clerk of said court, and that they do recover against the said ship Agnese one-half the costs incurred by said libellants in this court, to be taxed by the clerk.

And it is further adjudged, ordered, and decreed, that said libellants do recover against the said Virginia Ehrman one-half of the 754 costs of said libellants incurred in prosecuting their suit in said district court, as taxed by the clerk of said court, except seizure & custody fees of the Agnese as above, and that they do recover against said Virginia Ehrman one half of the costs incurred by them in this court in prosecuting their appeal, to be taxed by the clerk of this court.

And it is further adjudged, ordered, and decreed, that unless the respondents, the claimants of the ship Agnese, shall, within twenty days from the date of this decree, pay to the libellants the said sum of $12,042.28½ with interest from the 27th day of October, 1874, and the said costs so as aforesaid adjudged against said ship to be paid, that the marshal shall sell the said ship Agnese, her boats, tackle & furniture, to the highest bidder at public auction for cash, after having given five days' notice of the time, place, and terms of sale by advertising the same daily for five days before the day of sale, in two newspapers published in the city of Baltimore, and that said marshal forthwith pay the proceeds of said sale into the registry of this court, to be applied according to the terms of this decree.

And it is further adjudged, ordered, and decreed that the libellants recover from Lewis Ehrman, Julian H. Lee, William B. Johnson, and Thomas C. Cranmer, who have stipulated for the said Virginia 755 Ehrman, the sum of $12,042.28½ with interest thereon from October 27th, 1874, and the costs hereinbefore adjudged to be recovered by said libellants as against the said Virginia Ehrman, and that unless the said Lewis Ehrman, Julian H. Lee, William B. Johnson, and Thomas C. Cranmer shall pay to said libellants within ten days from the date of notice to them, or any of them, of this decree, the sum of $12,042.28½, with interest as aforesaid, and the costs hereinbefore adjudged to be paid as against the said Virginia Ehrman, the libellants shall have execution therefore against the lands and tenements, goods, chattels and effects of them, the said Lewis Ehrman, Julian H. Lee, William B. Johnson, and Thomas C. Cranmer.

Feb'y 6th, 1875.

HUGH L. BOND,
C't Judge.

From which said decree so as aforesaid passed, the claimants of the ship Agnese and the claimants of the steam-tug Virginia Ehrman, by their proctors aforesaid, in open court here, have prayed an appeal to the Supreme Court of the United States to be held at the city of Washington on the second Monday in October next, and to them it is granted: And also the said John B. Curtis, Charles Fobes, and George C. 756 Fobes, the said libellants, in open court here, prayed an appeal to the said Supreme Court to be held at the city of Washington on the second Monday in October next, and to them it is granted.

Thereupon, it is ordered by the court here, that the record and proceedings aforesaid, with all things relating to the same, be transmitted to the said Supreme Court, and the same is transmitted accordingly.

Appeal-bond of the ship Agnese.

Know all men by these presents that we, James Carey Coale and Jeremiah Wheelwright, of the city of Baltimore, are held and firmly bound unto John B. Curtis, Charles Fobes, and George C. Fobes, trading under the name and style of Curtis, Fobes & Company, in the just and full sum of one thousand dollars lawful money, to the payment whereof well and truly to be made we bind ourselves and each of us, and our and each of our heirs, executors, administrators or assigns, unto the said John B. Curtis, Charles Fobes, and George C. Fobes, their executors, administrators and assigns, firmly by these presents, sealed with our seals and dated this 23d day of March, A. D. 1875.

Whereas lately in a suit depending in the circuit court of the United States for the fourth circuit in and for the Maryland district, be- 757 tween John B. Curtis, Charles Fobes, and George C. Fobes, appellants, and Cerruti C. Allessandri and other claimants of the ship Agnese, appellees, a decree was passed in favor of the said appellants, from which said decree the claimants of the ship Agnese have prayed an appeal to the next term of the Supreme Court of the United States to be held at the city of Washington.

Now the condition of the foregoing obligation is such that if the said claimants of the said ship Agnese shall prosecute their said appeal with effect, and answer all costs if they fail to make their appeal good, then the above obligation to be void, else to remain in full force and virtue.

JA'S CAREY COALE. [L. S.]
J. WHEELWRIGHT. [L. S.]

Signed, sealed, and delivered in the presence of—
JOHN H. LOWE.

Bond approved, March 24th, 1875.

WILLIAM F. GILES.

Appeal bond of claimants of the tug Virginia Ehrman.

Know all men by these presents that we, Lewis Ehrman and William A. Johnson, are held and firmly bound unto John B. Curtis, Charles Fobes, and George C. Fobes, trading under the name and style of Curtis, Fobes & Company, in the just and full sum of one thousand dollars lawful money, to the payment whereof well and truly to be
758 made we bind ourselves and each of us, our and each of our heirs,
executors, or administrators, or assigns, unto the said John B. Curtis, Charles Fobes, and George C. Fobes, their executors, administrators, and assigns, firmly by these presents, sealed with our seals, and dated this 12th day of February, A. D. 1875.

Whereas lately in a suit depending in the circuit court of the United States for the fourth circuit, in and for the Maryland district, between John B. Curtis, Charles Fobes, and George C. Fobes, appellants, and Frederick Ehrman, Lewis Ehrman, Thomas C. Cranmer, Steven J. Fooks, Lewis S. Fooks, William A. Johnson, Elizabeth Glasshoff, Isaac J. Anderson, and Henry Lee, owners & claimants of the steam-tug Virginia Ehrman, were appellees, a decree was passed in favor of the said appellants, from which said decree the owners and claimants of the said Virginia Ehrman have prayed an appeal to the next term of the Supreme Court of the United States, to be held at the city of Washington:

Now, the condition of the foregoing obligation is such that if the said claimants of the steam-tug Virginia Ehrman shall prosecute their said appeal with effect, and answer all costs if they fail to make their appeal good, then the above obligation to be void, else to remain in full force and virtue.

LEWIS EHRMAN. [SEAL.]
759 W'M A. JOHNSON. [SEAL.]

Signed, sealed, and delivered in presence of—
JA'S W. CHEW,
Clerk Circuit Court, U. S.

Bond approved, 13th Feb'y, 1875.

WILLIAM F. GILES.

Libellant's appeal-bond.

Know all men by these presents that we, George C. Fobes and Samuel M. Johnson, are held and firmly bound unto Frederick Ehrman and others, claimants and owners of the steam-tug Virginia Ehrman, and also Cerruti C. Aldessandro & others, claimants of the ship Agnese, in the full and just sum of three hundred dollars, to be paid to the said Frederick Ehrman and others, claimants and owners of the steam-tug

Virginia Ehrman, and to Cerruti C. Aldessandro & others, claimants of the ship Agnese, their certain attorney, executors, administrators, or assigns, to which payment well and truly to be made and done we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated this 25th day of May, in the year of our Lord one thousand eight hundred and seventy-five.

760 Whereas lately in a suit depending in the circuit court of the United States for the fourth circuit, in and for the district of Maryland, between John B. Curtis, Charles Fobes, and George C. Fobes, libellants and appellants, against the ship Agnese and the steam-tug Virginia Ehrman, respondents and appellees, a decree was passed in favor of the said John B. Curtis and others, from which said decree the said John B. Curtis, Charles Fobes, and George C. Fobes have prayed an appeal to the next term of the Supreme Court of the United States, to be held at Washington on the second Monday of October next:

Now, the condition of the above obligation is such that if the said John B. Curtis, Charles Fobes, and George C. Fobes shall prosecute their said appeal with effect, and answer all costs if they fail to make their appeal good, then the above obligation to be void, else to remain in full force and virtue.

GEORGE C. FOBES. [SEAL.]
S. M. JOHNSON. [SEAL.]

Signed, sealed, and delivered in presence of—
JOHN H. LOWE.

(Endorsed:) May 26, 1875. Bond approved. William F. Giles.

761 I hereby certify that the aforegoing is a true transcript of the record of the circuit court of the United States for the fourth circuit, in and for the Maryland district, in the cause aforesaid.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said circuit court, this twenty-seventh day of May, in the year of our Lord 1875.

JAMES W. CHEW,
Clerk, Circuit Court.

(Indorsement on cover:) No. 140. The Steam-tug Virginia Ehrman, &c., Frederick Ehrman et al., claimants, appellants, vs. John B. Curtis et al., trading as Curtis, Fobes & Company. Filed 29th September, 1875. No. 147. John B. Curtis, Charles Fobes, & George C. Fobes, appellants, vs. The Steam-tug Virginia Ehrman, &c., F. Ehrman et al., clm'ts, & The Ship Agnese, &c., C. C. Allessandri & al., claimants. Filed 1st October, 1875. No. 305. The Ship Agnese, her tackle, &c., Cerruti C. Allessandri et al., claimants, appellant, vs. John B. Curtis, Cha's Fobes, & Geo. C. Fobes. Maryland C. C. U. S. Filed 6th November, 1875.

Supreme Court of the U. S.

October Term, 1876.

No. 140.

THE STEAM TUG VIRGINIA EHRMAN AND OWNERS

ats.

CURTIS AND OTHERS.

No. 147.

CURTIS AND OTHERS

vs.

THE VIRGINIA EHRMAN AND OWNERS AND SHIP AGNESE AND OWNERS.

PHILADELPHIA BAR ASSOCIATION

No. 305.

THE SHIP AGNESE AND OWNERS

vs.

CURTIS AND OTHERS.

Appeal from the Circuit Court for the District of Maryland.

BRIEF ON BEHALF OF THE VIRGINIA EHRMAN AND OWNERS.

S. T. WALLIS,
J. H. THOMAS,
For owners of Tug Virginia Ehrman.

Murphy & Co., Printers & Stationers, 182 Baltimore street, Baltimore.

In the Supreme Court of the U. S.

October Term, 1876.

No. 140.

THE STEAM TUG VIRGINIA EHRMAN AND OWNERS

ats.

CURTIS AND OTHERS.

No. 147.

CURTIS AND OTHERS

vs.

THE VIRGINIA EHRMAN AND OWNERS AND SHIP AGNESE AND OWNERS.

No. 305.

THE SHIP AGNESE AND OWNERS

vs.

CURTIS AND OTHERS.

Appeal from the Circuit Court for the District of Maryland.

BRIEF ON BEHALF OF THE VIRGINIA EHRMAN AND OWNERS.

The libel, out of which these appeals arise, was filed in the District Court for the District of Maryland, on the 28th of March, 1874, (p. 1,) by Curtis, Fobes & Company, owners of the Steam Dredge Charles Fobes, against the Steam Tug Virginia Ehrman and the Italian Ship Agnese, for collision. The Fobes, as stated in the libel, was engaged, at the time of the collision, (March 25th, 1874,) in deepening the Craighill Channel in Chesapeake Bay, below the mouth of the Patapsco River, under a contract with the Government of the United States. The collision, it is said, took place about ten o'clock at night, when the dredge was moored and anchored in the channel, towards its western edge, in a proper position and with proper lights set. The libel charges that the Virginia Ehrman was engaged, at the time, in towing the Agnese up to Baltimore, and that the Agnese (not the Ehrman) ran into the dredge and sank her. The collision is ascribed in the libel (p. 2) to negligence on the part of both ship and tow. The negligence of the tug is charged to have consisted in towing the ship too close to the dredge for safety, when there was plenty of room and water on both sides of her; and the negligence of the ship is said to have lain in her being negligently and unskilfully navigated, and, at the time of the collision, improperly steered.

The owners of the Agnese (p. 5) deny the negligence ascribed to them, and say:

That the ship had a licensed pilot on board and was being towed up the Bay by the tug, to which she was attached by a hawser of fifty fathoms running from her bow to the stern of the tug: That the ship was following the direction and was subject to the movements of the tug: That her master and crew were entirely ignorant of the channels leading to Baltimore and assumed no control or direction over the ship: That the ship was following closely in the direction of the tug and when in the middle of the channel, which at that point was wide, it was perceived by those on board that she was passing a dredge similar to the one afterwards run down: That the tug and ship ran close to this dredge, there being only a few feet between them and its starboard side, the ship still following closely in the wake of the tug: That a little further up the channel, astern of the dredge thus passed, there was a second dredge, lying, if anything, a little closer to the west side of the channel, and which had been partially obscured by the first dredge and had no bright lights or lookout: That the tug, continuing her course, would have run directly into the second dredge, had she not starboarded her helm, which she did just sufficiently to clear the dredge herself, but the ship continuing her course, with her head thrown a little towards the dredge by the starboarding of the tug's wheel, it was found impossible to prevent the ship from striking the dredge, but her headway was partially stopped and the blow was comparatively light.

The answer of the owners of the tug (p. 6,) denies that the dredge was lying in a proper position. It charges that the tug was engaged on the 25th of March, 1874, to tow the Agnese to Baltimore from a part of the Bay opposite Annapolis: That those in charge of the tug directed those in charge of the ship to take in her mainsail and foresail and pass the hawser over her starboard bow, which was done, and the hawser, fifty fathoms long, was made fast to the stern of the tug. The pilot in charge of the ship then asked the captain of the tug if they were going through the Craighill channel, and was informed that they were. About two or three miles from the mouth of the channel and about twenty from Baltimore, between nine and ten o'clock, P. M., the night being clear and moonlight, with a stiff wind from the south, directly aft of the ship, which had her topsails set and drawing and was under a headway of eight or ten knots, those in charge of the tug discovered three dredges, lying in a row midway the channel and two or three hundred yards apart. When within a proper distance of the first dredge the tug whistled to notify those on board of her, and received two whistles in reply, as a direction to pass to the westward of the dredge. This was done—the tug passing about fifty feet to the west of the first dredge, and, as she passed the second, she whistled to call the ship's attention, so that she might use proper care in passing also. The ship passed to the westward of the first dredge, but, instead of following the course indicated by the tug and which the ship ought to and might easily have taken, the latter negligently and improperly deviated to the eastward and ran into the second of the dredges, causing her to sink in a short time thereafter.

The respondents claim to have used all care and skill, and deny that the collision was caused by the act or default of the tug. They say:

1. That the dredges were anchored in the middle of the channel and in the range of the Government lights, instead of being anchored on the edge of the channel, which is only about three hundred feet wide at this part.

2. That the collision was caused by the gross mismanagement of the Agnese, due to the drunkenness, negligence and incompetency of her pilot.

They further allege that the ship, having a fair and free wind, with her topsails drawing and under full headway, was not dependant on the tug for her motion or the course she took, and that if she had followed the course indicated to her, and which she should have taken and was bound to take without any such notice or warning, the collision would not have occurred.

The District Court dismissed the libel (p. 8) as against the tug, with costs, and decreed against the ship for the entire loss, referring the case to a commissioner to ascertain the cost to the libellants of raising and repairing the dredge, and the damage they suffered by the loss of her services pending the repairs. The commissioner took testimony and reported, and after hearing exceptions the Court finally decreed against the ship (p. 51) for $24,184.57, adopting the report.

The libellants appealed from that part of the decree exonerating the tug, and the owners of the ship appealed generally. (p. 53.)

The Circuit Judge (p. 313) agreed with the District Court in finding the Agnese in fault, and found that by bad steering, the result of her pilot being drunk, or from the want of a proper lookout, causing her to mistake the lights of the tug for those of the dredge, she was the immediate cause of the collision. But he thought that the tug was negligent and reckless in steering too close to the dredge, without necessity, and ought to share the loss. He accordingly reversed the decree below, and adjudged the tug and the ship each to pay $12,042.28, with interest from October 27th, 1874, and half the costs, except seizure and custody fees of the Agnese, which vessel had remained in custody, the tug having stipulated. The decree was rendered Feb. 6, 1875.

Appeals were taken from this decision by all parties.

There is no dispute about the fact found by both Courts, that the pilot of the Agnese was so drunk before and at the time of the collision, as to be absolutely incapable of directing the navigation of the ship, and that the immediate cause of the collision was the improper steering of the ship in consequence. This is fully established by the log of the ship herself, (pp. 293, 304.) It was also positively sworn to by the master and crew of the Agnese in their protest, made on the 24th of March immediately on their arrival in port. This protest was produced and proven (p. 208,) and was shown (pp. 281, 282) to have been made up from notes furnished to the notary by the Italian consul, and to have been carefully translated to and understood by the parties who executed it, after its preparation. (p. 292) The clerk below has failed to insert the protest in the record, but it will not be disputed here by counsel, that it contained the express declaration that at the time of the collision " the master saw that the pilot was very much intoxicated and unfit to give any orders; that the pilot was in such an intoxicated state, that he was in a manner helpless and laid on a sofa." The contents of the protest on this point will indeed substantially appear by the cross-examination of the witness Giulio Bozzio. (p. 249.) An attempt was made to show, by the captain and crew, that the pilot was only drunk, or found to be so, after the collision; but this pretence was satisfactorily disposed of by the cross-examination, and it was positively proven by Mr. Fobes (p. 275) in rebuttal, proper foundation having been laid for the enquiry, that the day after the collision the captain and mate both informed him and his officers that they were not responsible for the collision, as the pilot was drunk and they did not think they ought to be held responsible. (See also Anderson, 128, 141. Ehrman, 165, 166. Bodesta, 209, 210. Giulio Bozzio, 247, 250.)

In regard to the insufficiency of the lookout on board the ship, which was another of the grounds of the decree below, the testimony is equally clear. The witnesses, it is true, who were on board the ship, are unanimous in saying that there was a man stationed forward for the purpose of looking out. (pp. 200, 224, 225, 244, 249, 258, 260.) All agree in testifying that there was but one man so engaged, except the chief mate Giulio Bozzio, who swears (p. 249) that there were three. This statement, on the part of the mate, of all others, is the more remarkable, because there is express proof of his having stated to the captain of the tug, on the very night of the collision, that no one was on the lookout at the time when it happened, as all hands were clewing the mizzen-topsail. (Anderson, p. 141.) The master of the ship says, (p. 206,) that this was done "a little before she struck," and between the time when they passed the first dredge and their collision with the second. As the two dredges were only a quarter of a mile apart, (pp. 70, 77, 132,) it will be readily presumed that it is a question of seconds, rather than minutes, as to when the clewing was finished, for it is proven, on the part of the ship herself, that she was going at the rate of from six to seven knots, (p. 225,) or from seven to eight, (p. 238,) and the learned Circuit Judge (p. 314) puts it at from nine to ten. The master of the tug says from eight to ten, (p. 127.) But whether there was or was not a lookout set, and whether it consisted of one man or three, it is very palpable from the evidence that it was wholly incompetent, or that its duties were grossly neglected. It was, as has been said, "a bright, clear, starlight, moonlight night." (See pp.79, 99, 174, 175.) The moon was in her third quarter and went down at seventeen minutes after two next morning, (p. 243,) the collision taking place a little after ten P. M It is averred in the answer on behalf of the ship (p. 6) that the dredge had no proper or sufficient lights set, but the proof shows that the charge is entirely without foundation. The dredge had three first class signal lights up, one forward and two aft, which were burning brightly when she sank. (pp. 78, 79 99, 114.) The pilot of the ship saw them after the collision. (p. 236.) A vessel could be seen that night all of three miles off. (pp. 99, 112.) All three of the dredges, extending in line about a mile and a half from south to north, (pp. 77, 126,) were seen by the master of the tug before he entered the Craighill channel, and the range of their lights was observed and discussed by and between the master and one of the owners (Mr. Ehrman) who was on board. (pp. 126, 152.) The master of the tug testifies, that when he whistled, in order to draw the attention of the dredges to his approach and to notify those on board the ship that there was something ahead, he was still a mile, more or less, from the first dredge, the one which they passed in safety. (p. 142.) There is consequently no room for dispute that any competent lookout, not flagrantly neglecting his duty, ought to have seen both the lights and the dredges themselves. The pilot, Adams, who was on board the ship was examined in her behalf. He testified that he was not drunk, but only "sick at the stomach," "kind of squeamish," "fainty and sleepy." (p. 231.) Not thinking of any dredges being in the river, he says that he did not see the first dredge till the tug blew her whistle, which, he says, was when the tug was nearly abreast of the dredge, with the latter on her starboard bow and only one hundred yards off. He then saw the first dredge's light for the first time. On being asked what prevented his seeing it, he answered that he could not see anything over the ship's bow (he being aft) except the tug's lights, which he thought were higher than the lights of the dredges, and he was looking after the tug (improperly printed "ship" in the record p. 237.) On being further asked whether the lookout could not have seen the dredge's light, he answered yes, that he would have seen it himself if he had been on the lookout, but that the lookout, if he saw it, did not report it, nor did he make any report when they came near the second dredge—at all events, none that the witness heard. (pp. 226, 239.) He, (the witness,) as soon as he saw the first dredge, went immediately forward of the mizzen-mast and got on top of the house there, where he stood and looked out, (p. 226,) but he did not see the lights of the second dredge at all, until after the collision, (p. 236,) nor did he see the dredge itself, until he heard the whistling from the tug and the tug was nearly abreast of the dredge. (pp. 226, 227.)

The officers and men of the ship make the case even worse, if possible, in this regard, by their statements. None of them dispute, any more than the pilot, that they saw the lights of the tug all the time, and they all claim that the ship was steering after the tug by her lights. The Captain of the Agnese (p. 244) being asked whether the tug's lights were burning, answered "yes sir—all right." And see Adams, (p. 224.) Fosco, (273,) who was at the helm, testifies that the tug had her lights all burning, and that he was watching her, with orders to steer after and keep the tug's lights on his starboard bow. Milobeck, the alleged lookout, testifies to precisely the same effect, (p. 259.) And see Achilli, (p. 262.) Plainly, therefore, there was no difficulty in their seeing the dredge's lights, as well, if they had used their eyes. But they saw none. Fosco swears (p. 259) that when they passed the first dredge, although they went within from eighteen to twenty feet of her, he only saw "a very feeble light" on her, while the pilot Adams swears that he saw her lights as soon as his attention was attracted to her by the tug's whistle. (p. 237.) But Fosco says, that although on the lookout, he only saw "something black forward," when he was within twenty-five or thirty fathoms of the first dredge, and reported it as "something black." (pp 245, 259.) Adams says, (p. 237,) on the contrary, that if the lookout did see the first dredge he made no report of it. Bodesta, the ship's master, says that when he was along-side of the first dredge, the lookout reported her as "an object, a black object. he could not see what it was." and he, the master, when his attention was called to it, saw only "this black object" and no lights, though he passed within twenty feet of it. (p. 201.) Fosco goes on to state (p. 260) that when they came to the second dredge, with which the collision took place, he did not see her till she was as near as thirty five fathoms, and then "he saw only a black object; he did not see any lights." (pp. 260, 261.) He does not pretend to say that he reported even the "black object." Bodesta says (p. 203) "the man at the lookout said he feared there was another object forward." They were then very near to it, and he, the master, saw no lights on it. The chief mate Giulo Bozzio, did not see the second dredge till the ship struck it. (p. 246.) Nor did Fosco, the man at the helm. (p. 275.) The log of the ship (p. 304) seems to put an end to all possible contention that the lookout saw or reported the injured dredge at all. It says: "about 10 P. M. the above-mentioned pilot ordered to lower down the topsails, and *while we were executing this operation* we heard the tugboat whistle forward. *The captain seeing that the pilot don't make any observation to this signal, he went forward himself to see* what was indicated such repeated whistles more times, but scarcely when he came forward he saw in a small distance a black mass, and then he instantly ordered to go with the rudder hard to port for avoid the collision." (See another translation, (p. 293,) which begins by stating that after taking the tug they "*were neglectful under her tow.*")

From all this it is obvious, that the lookout did not see the dredge's lights at all, and that if he saw the dredge herself he did not report her: that the tug gave repeated signals to the ship to be on the lookout, which the master of the ship understood, but looked to the pilot to attend to: that the pilot, being drunk, paid no attention to them, and the master, being alarmed at their repetition and at the pilot's neglect of them, ran forward himself, observed the dredge before him too hastily to see or remember whether it had lights or not, and gave a desperate order to port the helm when it was too late to avert the catastrophe How far the occupation of the crew, at the time, in lowering the topsails, may have contributed to the result, by withdrawing the lookout from his post, has been slightly considered (p. 6, *ante*) in view of the statement of the Agnese's mate to Captain Anderson, (p. 141,) that there was no lookout at the time of the collision, all hands being engaged in clewing the mizzen topsail. There is some contradictory evidence, to show that the mizzen topsail had been lowered a few moments, or some time, before, but whether it was the mizzen topsail or some other is not of the slightest moment, it being made undeniable by the log, that when the warning was given from the tug and neglected, some topsails were in the act of being lowered Here then is a case of the grossest fault on the part of the ship, and both of the Courts below have found it as matter of fact—the District Court making it the exclusive cause—the Circuit Court declaring it the immediate cause of the collision. Indeed the learned Circuit Judge goes further and finds that the ship was guilty of active misconduct and that it was not an omission of proper precaution and vigilance, merely—not a failure to steer well and in time, but actual bad steering or the want of a proper lookout—which produced the result. Was he right in going further and saying that the tug contributed to a result so produced? Declaring that the collision was produced by the neglect and default described, the

Circuit Court necessarily determined that without such neglect and default there would have been no collision. That being decided, was there any thing else left to decide?

THE RELATION BETWEEN THE TUG AND THE TOW.

The tug was employed off Annapolis to tow the ship to the city. The testimony of Anderson, the master of the tug, is so mutilated in the record (foot of p. 125) as not to contain his statement on that subject in full, but it sufficiently appears from his deposition (p. 126,) the testimony of Adams, the pilot of the ship, (p. 222,) Ehrman, (p. 166,) and the log, (p. 304,) that the contract was made through the interpretation of the pilot, about half-past seven in the evening, and that by direction of the master of the tug the ship's hawser (p. 225) was passed over the starboard bow of the ship, through a chock, variously stated by the master at three, (p. 199) and the pilot (p. 236) at thirty or forty, feet aft of the stern. The hawser was about fifty fathoms long, as stated in both answers and from forty to fifty as proven by the witnesses. (pp. 140, 199-243.) It was fastened to the stern of the tug, the stern-bitts to which it was made fast (p. 225) being about midships. (p. 155.) When the tug was taken and the hawser put out, the ship was moving rapidly through the water, with a fair eight or nine knot breeze--a full wholesail breeze—blowing, which soon drew directly aft. (pp. 126, 225, 304.) When the tug took hold, the pilot of the ship asked the master of the tug whether he was going through the Craighill channel, and received for answer, "I am." The pilot then said he would keep the sail of the vessel up to help the tug (p. 120) —"help him all I could." (pp. 223, 238.) Capt. Anderson testifies (p. 130) that when he passed the first dredge the ship was under three topsails, and going at the rate of from eight to ten miles with the tug's assistance. (p. 127.) Capt. Bodesta says (p. 199) that when the tug took the ship they took in all but two topsails, with which and without the tug the ship would move only about three miles per hour. (p. 198.) The pilot, Adams, says the same, (p. 223,) and swears positively that the two topsails were up till the collision took place. (p 228.) See also Williams (p. 99,) and his positive testimony (pp. 104, 105) that he saw the topsails when they were in the act of being clewed up after the collision.

Captain Landis, an expert witness, called on the part of the ship, proves (p. 211) that if the Agnese would have sailed seven or eight miles with the wind she had, under full canvass—and it is proven she would have sailed eight or nine—she would go five or six miles with her two topsails only. (And see Giulio Bozzio, p. 247.) The pilot of the ship gives for his taking in sail, the extraordinary reason that he wanted to get better control of the helm of his ship than he would have had if she had been going faster from her own independent motion, (p. 238;) but he finally admits that he had complete control of her, and swears that he kept his promise to the tug to aid her with his sails, and did help her with as much sail as he thought it prudent to carry. (p. 239.) His entire testimony under cross-examination (pp. 237 to 241) is important and curious. With a single exception, all the experts examined on both sides testify—what would seem to be plain enough without any testimony—that under the conceded facts and conditions the ship did have and must have had entire control of her own motions, and not only was not dependent upon or controlled by the tug, so far as her course and direction were concerned, but could, in fact, at any time, by a sufficient change of her own course have pulled the tug in her direction. (pp 130, 183, 184, 187, 191 192, 193, 194, 227, 257, 258, 268, 269, 270.) The only witness to the contrary is Captain Landis, (p. 302,) the value of whose testimony may be estimated by the fact that he boldly faced and maintained the proposition, "that a ship competently manned and officered, and with a competent pilot, is prevented from following the tug having her in tow, by the fact that she has a free and favorable wind which gives her control of her own motions." (p. 302.)

The fact that the ship not only had control of her own motions, but, by the change in her course which produced the collision did actually retard the working of the tug's engine and "slow down" its revolutions, is distinctly proven by her engineer, Blizzard, (pp. 170, 173,) and not attempted to be contradicted.

It is further shown by those on board the ship that she steered after the tug's lights, and that she did so without any difficulty, till the change in her course which caused the collision. She was kept always with the tug's lights a little on her starboard bow. (See ship's answer, p. 5, pp. 200, 225, 241, 242, 248, 259, 262.) That it was her duty to follow the tug's course, without instructions to the contrary, is manifest, but it was likewise proven (see the testimony of Cooper, President of the Board of Pilots, pp. 265, 268 and pp. 194, 237, 238, 257.)

That the ship did not follow the course of the tug is demonstrated by the fact that the tug went abundantly clear of the dredge and the ship collided with it, although it is obvious and is in evidence that the ship, having the hawser over her starboard bow and steering so as to have the tug's lights on her starboard bow, was, when on her proper course, further off from the dredge than the tug by the breadth of the latter, which was nineteen feet and a half. (pp. 129, 169.) And the necessary effect of the tug's motion upon her would be to draw the ship aport and away from the dredge. (Captain Etchberger, p. 192.) Adams, the pilot, when pressed as to this effect made no response. (p. 236.)

Thus far, then, the case is one in which the ship had entire command of her own motions, and by the admission of her master, (p. 201,) "was steering very well." If the course and traction of the tug had any effect at all on her, they pulled her away from the dredge, and not towards it: if she had followed the course of the tug she would necessarily have avoided the collision; and yet, by negligence and bad steering, apart from all influence of the tug on her navigation she did, herself, produce the collision. Unless, therefore, there be something more to make out the responsibility of the tug, it is respectfully submitted that the District Court was right, and the Circuit Court was wrong.

The Galatea, 2 Otto, 439.
The New Philádelphia, 1 Black, 76.
The Quickstep, 9 Wallace, 670.
Sprowl vs. Hemmingway, 14 Pick., 1.

THE OBLIGATIONS OF THE TOW.

It is assumed to be the law in towage cases that while the tug contracts to furnish all the skill and efficiency which the duty to be performed by her requires, the tow is bound to supply the same skill and efficiency as to that part of the navigation which falls to her share, and her owners are "responsible for the negligence, omission of duty or unskilfulness" of her master and crew.

The Galatea, *ubi supra.*
Cramer v. Allen, 5 Blachf., 250.

In the case of the Colorado, (1 Otto, 703,) in establishing a criterion for determining whether the speed of a steamer is or is not excessive, in any given case, this Court has said that to be excessive the rate of speed must be such as would be "dangerous to *any craft which she ought to have seen and might have seen*"—not dangerous to any craft, which by its own neglect or disobedience of the laws of navigation might chance to be without the proper lights or otherwise incapable of being seen. And the same principle is applied in the case of The Free State, 1

Otto, 405, where it is held that a steamer is not bound to slacken her speed or stop and reverse, merely because she is approaching another vessel, which may bring on a collision by a departure from the rules of navigation Every vessel has a right to expect that every other vessel will do what the law requires, and not only has the right, but is bound to act upon that theory. There is no reason why this principle should not apply as between a tug and her tow, as well as between them, or either of them, and any other vessel they are approaching. A tug proceeding with her tow, has the right to expect ordinary care, skill and seamanship from those on board the tow; and if the tug so proceeds, as that by the exercise of ordinary skill and care on board the tow, the navigation will be perfectly safe to her and to other crafts which they may meet, the tug has discharged her duty, and the consequences of any want of care and want of skill on board the tow by which a collision occurs, must rest on the tow only. And this brings us to

THE ALLEGED MISCONDUCT OF THE TUG.

The Circuit Court imputes no fault to the tug in having undertaken to tow the ship through the Craighill, instead of one of the old channels. The sole misconduct charged by his Honor is that of towing the ship too near to the dredge. In the brief filed on behalf of the owners of the dredge, however (p. 9) it is claimed that the tug was guilty of gross imprudence in taking the Agnese up the Craighill Channel at night, at the rate of eight or nine miles the hour, with her captain's alleged imperfect knowledge of the width of the channel and the depth of water on either side of it. It is said too that the imprudence was aggravated by the fact, that the captain of the tug knew the dredges to be in the channel. There is no substantial foundation, it is submitted for any part of this charge, and it is not made in either the libel or the ship's answer.

The brightness of the night, the favorable wind and excellent weather have already been described. The channel was an open, common, public thoroughfare for ships, and especially for large ships under tow. In fact it was specially excavated for the use of vessels of heavy draught, and was used by them, altogether, at the time of the collision. Although not then finished to its contemplated width, it had been provided by the government with range lights, for navigation by night, of which public notice had been given by the Light House Department. (pp. 60, 154.) It is shorter by from four to six miles than the old ship channel, (pp. 144, 230,) and witness after witness deposed to passing through it safely by night and day and with vessels of heavier draught than the Agnese. (See pp. 60, 138, 144, 145, 146, 148, 149, 153, 154, 167, 186, 220, 221, 279, 290, 291, 309.) Adams, the pilot of the ship, testified that it was a channel which he "did not like nohow, in the night," (p. 238) but the cross-examination developed the insincerity of his statement, and it was in evidence, as already mentioned and as he admitted, that when the tug took the ship her master told him that he was going through the Craighill channel, and he, Adams, never intimated any objection then or afterwards. (pp. 126, 225, 238.) Cooper, the President of the Board of Pilots, who testified on behalf of the ship and in face of the depositions of so many witnesses, pilots and shipmasters, to the contrary, that "It is not customary for pilots to sail ships through that channel at night," placed his objection to it exclusively on the ground of the difficulty of handling ships in it *without tugs*. (pp. 266, 290.) Capt. Shaw, one of the oldest and most experienced pilots of the port, gave us an additional reason for going through it, that the old channel was no longer lighted up at night. (p. 186 and see 279.) As to the suggestion that the master of the tug knew that the dredges were in the channel and would obstruct it—the fact is, that the dredges had been away from there for a long time, and only went down the very afternoon preceding the collision to recommence excavation. The tug went down the same afternoon, leaving Baltimore at half-past five (p. 136) but did not pass through the Craighill channel. Her master stated, on cross-examination, that he saw the dredges, as he went down, at a distance, but did not know whether they were at anchor or still in motion. (p. 136.) Ehrman, who was on board, did not see them. If they were in position in the channel, as the counsel for the dredge contend, they were at least twenty miles from Baltimore, and by the time the tug, leaving Baltimore at half-past five, could reach that point on the 25th o March, the light would hardly suffice to see their location. But there is not the slightest evidence that those on board the tug knew the position which the dredges were to occupy in the channel, nor to what extent they were to form the obstruction which is said to have rendered it imprudent to take the channel that night. Upon the principle already stated, they had no right to anticipate that the government which had opened the channel, so long before, to the main navigation of the port, would practically close it again and render it unsafe and unfit to be used, without previous and public notice. Indeed the whole pretensions of the argument under discussion are at absolute variance with the express averment of the libel itself (p. 2) that "there was plenty of deep water on either side of said dredge, into which the tug could have directed her course, and thus the said steam tug could have easily run clear of the said dredge and the said ship Agnese would have had ample room also to have run clear of said dredge."

The tug herself drew about eleven feet of water. (p. 133.) The ship, although a large one, being of 218 feet keel, 20 feet beam and 38 feet deep, was in ballast and light, drawing from fourteen to fifteen feet. (pp. 197, 198, 199.) The old Swash channel does not admit vessels of over twelve feet safely. In the old ship channel you may have seventeen feet, but not always, as it depends on the tide. (p. 301.) The Craighill channel had a depth of twenty-four feet so far as excavated, (200 feet in width,) (pp. 60, 297,) with 21 feet at average low tide. (p. 291.) The expediency of using it, in preference to the others, with a vessel drawing from fourteen to fifteen feet, is obvious.

The other default alleged against the tug is, that she approached unnecessarily near the dredge, so that when she changed her course to avoid the latter, the tow could not follow her with sufficient rapidity to avoid colliding. (See the opinion of Judge Bond, pp. 313, 314.) It required, as the learned Judge says, a "most accurate knowledge of seamanship and expert management" to prevent the collision.

It would be a sufficient answer to this to say, that the tug did not change her course, as is assumed, (Williams, p. 101,) and that the collision has already been shewn, and the learned Judge himself (p. 313) declares it, to have occurred, not by reason of "the slightest deviation from nice steering," but because of "bad steering, the result of drunkenness on the part of the pilot or from the want of a proper lookout, causing the Agnese to mistake the lights of the dredge for those of the tug which had her in tow"—in other words because of the grossest incompetency or neglect on board the ship. There is no place or channel into which the tug could have taken the ship, and no course the tug could have run, where such causes might not have produced the catastrophe, and the whole accusation amounts simply to saying, that the tug was in fault for taking a course, in which a worthless lookout, a drunken pilot and incompetent officers, on board the ship, might run another vessel down.

The testimony shews that the dredge was in fact run down by this very combination of drunkenness, incompetency and neglect. As has been shewn, the ship had entire control of her own motions. She was ordered to steer, and the testimony of her pilot and crew is that she was steering, in the wake of the tug, with the lights of the tug on her starboard bow. By the position of the hawser, drawing from her starboard bow to the centre of the tug's stern, she was thrown to the port side of the tug, or to westward of her, to the distance of the tug's breadth (19½ feet.) The channel runs due north and south. When they passed the first dredge, necessarily the ship passed farther off from it than the tug, which passed safely. The second dredge, which was collided with, was lying, as both the ship and tug contend, 43 feet more to the ~~east~~ than the first. The tug kept steadily on the course she took in passing the first dredge, which was slightly to the west of her previous course, (pp. 132, 133, 167, 168,) and as she drew near the second dredge, nearly abreast of her, (p 127,) Mr. Ehrman (the owner who was on board) cried out to the master of the tug: "By George, captain, see where that ship is going." They saw that the ship had taken a sudden and sharp sheer to the east and was running right into the dredge. (pp. 127, 132, 152, 167.) At the same time the attention of the tug's engineer was attracted by a sudden check to the revolutions of his engine, and looking out he saw the ship sheering to the eastward. (pp. 170, 171.) Captain Anderson blew his whistle instantly, three times, in warning, stopped and reversed his engine and called out to the ship to "starboard," crying also, "where are you going with that ship?" The ship, however, ran straight on into the dredge, continuing her course or inclining further eastward. (pp. 127, 132, 133, 152, 157, 170, 261.) The hawser was parted by the sheer. (pp. 134, 211.)

It is contended on the part of the ship, that she followed the tug's lights faithfully, and kept on her course without change or sheer, but that, when near the second dredge the tug sheered suddenly, and although the ship's helm was put hard starboard, the impulse she had from the tug carried her into the dredge in spite of herself. It is natural enough that those on board the ship should take their own sheer for the tug's, and the condition of the pilot and the indisputable confusion and negligence of the master and crew were such as to render it difficult for them to tell one thing from another. The confessed fact that they did not see the dredge's lights at all, and did not see her till they were just upon her (pp. 202, 203, 237)—almost in contact with her—together with the fact that they supposed themselves to be following the tug's lights down to the instant of her alleged sheer, which was just when the ship starboarded her helm and the collision took place, (p. 202,) is conclusive proof that they were steering towards the dredge's lights instead of the tug's, as the Circuit Judge found. (p. 313.) If they were steering after the tug, with her lights on their starboard bow, and she to the starboard of them by her breadth, the hawser being on their starboard side, the tendency of her whole course would have been to port, and any sheer of the tug to port would of necessity have carried her further in that direction, as her pilot confesses. (p. 240.) Adams further states (p. 225) that the tug's entire sheer was from two to three points, as he saw it, and so far from putting the collision to the account of that sheer, he finally admitted in reply to an enquiry of the District Judge (p. 241) that he could not account for the collision, unless the ship struck the hawser of the dredge, and he admitted that he did not feel any such blow or contact. (p. 241.) The captain of the ship (pp. 203, 206) appears to settle the matter, for he admits that the sheer which he attributes to the tug, occurred at about the same time when he first saw the dredge, and this is conceded to have been but an instant before the collision; (pp. 206, 259) when, as the lookout says, he was not more than thirty-five fathoms from the dredge, and it was too late for the alleged sheer possibly to affect the ship—certainly not unfavorably. He admits also (p. 202) that "it may be the sailors did" put his helm to port, after passing the first dredge.

The question is at all events set at rest by the testimony of Williams, the lookout and watchman of the dredge, who being on board neither tug nor the tow, and therefore a better judge of the relative movements of both than those who were, has sworn positively, that the tug came on and had passed the dredge's hawser, which the witness had slackened, when the ship took so rank and sudden a sheer, that she must have ported her helm to do it. (p. 98.) It could only have occurred, he says, from carelessness—either no one looking out or some other neglect. In this he fully corroborates Capt. Anderson (pp. 127, 132,) and Ehrman, who says he he had his eyes on the ship nearly all the time, (p. 156.) And see depositions of Captains

Howes and Thompson for the ship. (pp. 308, 312.) Williams says, expressly, that the tug made no sheer, and did not alter her course to pass the dredge, but came "right straight along." (p. 101.)

It will further be observed that in the ship's log not one word of allusion is made to any sheer of the tug, or any default or misconduct whatever on her part.

It is then respectfully submitted that even if the tug went nearer to the dredge than was prudent, as is charged, the collision was not the result of that fact, but of sheer incompetency and negligence on board the ship. It is further submitted that when the sheer of the ship was taken so wantonly or carelessly and so near to the dredge, which she ought to have passed in safety to both, it was too late for the tug to do anything to prevent it. (Capt. Shaw, 184.)

In respect to the question of too near approach to the dredge, there are facts which seem to be disregarded by the learned Circuit Judge. He assumes, that if Capt. Anderson knew there was not water enough on the west of the dredge to go farther off from her than the distance at which the tug passed, he should not have gone to the west, and if he did know it he should have given the dredge a wider berth, when he passed on that side. And this is substantially the contention of the other appellants.

The Craighill channel, intended to be 400 feet wide, was excavated at that time only to the width of 200. The dredges were placed on its western edge that night to go on excavating to westward next morning. The range lights, no doubt in contemplation of the immediate completion of the channel in 1870, (see Cooper's letter, pp. 290, 291) were set in the axis of the proposed, not the actually completed channel, (see pp. 145, 147, 149, 176, and McCullough, the inspector, p. 69) and the dredges therefore were in the very line and range of the lights, by which it was absolutely necessary to steer (p. 187) to pass through the channel with safety, and which were put there for that purpose. (pp. 138, 140, 149.) Mr. Ehrman called Anderson's attention to this fact when they first saw the lights of the dredges. (p. 152.) Plainly therefore, the proper course for the tug, running necessarily by the range lights, was as near the line of range, *i. e.* the line in which the dredges were, as possible. (Capt. Shaw, 187, 188.) The channel on the Eastern side of where the dredges lay, was of course entirely out of the range, as it extended 200 feet from the axis of the channel and there was no safety in running that part of the channel at night, because it had to be run by the range of the buoys, and not even on moonlight nights could enough buoys be seen, at once, to give the necessary range (pp. 149, 150) apart from the lights. Whether, therefore, it was prudent and proper for the dredges to be anchored directly in the range of the beacon lights, where they would be necessarily in the way of all vessels passing through the channel, and where their own lights might render navigation confused and difficult, is a question which the Court will not fail to answer at the threshold of its enquiries. It is not the naked question as the Circuit Judge puts it, of their right to be anchored in Chesapeake Bay, but of their right to interfere with its safe navigation through the only channel used by large ships. And it is further to be considered, that they were anchored where they were as a mere matter of convenience or economy for next day's work. (pp. 63 to 66, 297.) The argument on this point, however, is suggested by the point itself. Its importance, in the particular question we are considering, lies in its establishing the fact, that the course taken by the tug, and which brought her so near to the dredge, was one forced upon her by its location, and by the necessity of steering by the lights with which the dredges were put in range, (p. 149. and see p. 187.) It was neither negligently, nor unskilfully, nor wantonly, but necessarily, taken.

But even if it had been safe for the tug to steer out of the range of lights any farther than she went, and she had run no risk from losing the range, it would still not have been safe, on account of the depth of water and the nature of the bottom. While it is undoubtedly proven by the witnesses referred to in the brief of the libellants, (pp. 9 and 10,) that there was considerable, and for the tug and her tow, sufficient depth of water to the west of the channel and the location of the dredge collided with, it was admitted by the witnesses themselves that there were shallows not far above and below that point, and that there was great inequality, with "bunches" on the bottom, reducing the depth to 12 feet, here and there, all along the edge of the excavated channel, (Capt. Almy, pp. 179, 180.)

Captain Shaw, one of the oldest and ablest seamen examined, a pilot and tugboat man of thirty-four years standing, corroberates this fully, and pronounces it absolutely unsafe for vessels of 14 or 15 feet draft, to go outside of the excavated channel. not because of its being altogether too shallow, but because, although there is deep water generally, the bottom is so "bunchy," and "lumpy" as to involve risk. He illustrates by the grounding of vessels within his knowledge along the edge of the channel. (p. 182 to 186.) And so says Coulter, an experienced pilot, (p. 61.) Asprill, a tug commander, (p. 168.) So says Captain Anderson, with examples in his own experience, (pp. 143, 144.) Adams, himself, the ship's pilot, gives as his objection to going up the channel, that there was "not room" in it. (p. 239.) Cooper, the President of the Board of Pilots, called on behalf of the ship, testifies in answer to the Court (p. 265) that it is dangerous for vessels drawing over 12 feet to go outside of the channel.

The learned Circuit Judge, therefore, it is respectfully urged, was altogether in error, when he held (p. 314) it as proven that "for three hundred feet west of the line upon which the dredges were there was abundant water for a ship of the Agnese's draft." His conclusion drawn for that error was, it is submitted, necessarily and equally erroneous. That vessels may pass with safety a short distance beyond the western line of the excavations, appears to be the fair average of the evidence. But that they have more than a limited range outside, cannot be maintained from the proof.

Before concluding, it is proper to call the Court's attention to the two differing translations of the ship's log, in one of which (p. 293) her helm is said to have been put "a starboard" to avert the collision, while in the other (p. —) it is said they put "the rudder hard a port." (p. 304.) The testimony by which this is sought to be explained is from pp. 304 to 306, and on p. 294. It is rudimentary Italian, that "*a la sinistra*" means "*to* the left," and "sulla sinistra" means "*upon* the left."

It is unnecessary to discuss the other points mooted in the evidence, especially, the usage of the port as to whistling and "tooting" in the tug service. It is undisputed that the tug whistled to give the ship notice of her approach to the dredge, and that the captain of the ship, as shown by both his testimony and his log, (p. 304) recognized and understood it as a signal, and ran forward to see what was the matter, when the pilot failed to attend to it.

The skill and experience of Anderson, the tug's master, are fully proven. (pp. 265, 270, 277, 278, 279, 285.)

This examination of the testimony, as to the tug's alleged default, has been made, out of deference to the Court below and respect to the views of the opposing counsel. But the counsel for the tug must be permitted to insist, nevertheless, that it can be of no importance whatever, to enquire whether there was or was not a default, when even if there was, it contributed in no way to the collision. It is but the old case, so often determined by the Court, that a departure from any of the rules of navigation amounts to nothing, if it be clearly shown that the accident would still have happened, by the other party's default, if the rule had been observed. The absence of a light or a lookout will not affect a case, where it did not affect the result.

S. T. WALLIS.
J. H. THOMAS.
For owners of Tug Virginia Ehrman.

Supreme Court of the United States.

CROSS-APPEALS.

No. 140,

THE STEAMTUG VIRGINIA EHRMAN,

vs.

JOHN B. CURTIS, AND OTHERS.

No. 147,

JOHN B. CURTIS, CHARLES FOBES AND GEORGE C. FOBES,

vs.

THE STEAMTUG VIRGINIA EHRMAN AND THE SHIP AGNESE.

PHILADELPHIA BAR ASSOCIATION

No. 305,

THE SHIP AGNESE,

vs.

JOHN B. CURTIS, AND OTHERS.

BRIEF OF COUNSEL FOR JOHN B. CURTIS, CHARLES FOBES, GEORGE C. FOBES, LIBELLANTS.

I. NEVETT STEELE,
A. A. STROUT,
Of Counsel for Libellants.

Supreme Court of the United States.

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No. 305,

THE SHIP AGNESE,

vs.

JOHN B. CURTIS, AND OTHERS.

BRIEF OF COUNSEL FOR JOHN B. CURTIS, CHARLES FOBES, GEORGE C. FOBES, LIBELLANTS.

These are cross-appeals taken from a decree of the Circuit Court of the United States for the District of Maryland. Curtis, Fobes & Co., appellants in No. 147 and appellees in Nos. 140 and 305, were the libellants below.

The libel states that they were the owners of the Steam Dredge "Charles Fobes," that the dredge was employed in deepening and widening the Craighill Channel in the Chesapeake Bay under a contract with the United States; that on the night of March 25th, 1874, she was lying in her proper position on the Western edge of said channel; that the Steamtug Virginia Ehrman was on that night engaged in towing up to the port of Baltimore the Ship Agnese; that the said ship while being so towed ran into and cut and injured the said dredge so that in a few minutes she filled and sunk; and that the collision was the result of negligence and the want of proper skill and care on the part of the masters and crews of both the ship and the tug.

The answer of the claimants of the Ship Agnese sets up the defences that the dredge had "no proper and sufficient lights set and burning or proper lookout on board, as claimants are informed and believe;" and that the ship was towed by the tug into such a position that it was found impossible "to prevent the said ship from striking the said dredging machine."

The answer of the claimants of the tug alleges that the collision was caused "in the first place by the fact that the said dredging machines were anchored in the middle of said channel, and in the range of the lights intended for the guidance of ships using the same," and "in the second place by the gross mismanagement of the said Ship Agnese."

The District Judge held that the libellants were entitled to recover, and decreed in their favor against the Ship Agnese for the whole amount of damages, and dismissed the libel as to the tug. Upon appeal by the libellants and the claimants of the Ship Agnese to the Circuit Court, the Circuit Judge held the ship and the tug both to be in fault, and decreed against each of them for one-half the damages. (See opinion and decree, pages 313 to 317 of Record.)

From this decree all the parties appealed. The principal object of the appeal on the part of the libellants was to make it certain, that in the event of a reversal by this Court of the decree as against the ship or the tug, the whole case should be open here, so that the vessel here held to be in fault might be made liable for the whole amount of damages instead of one-half thereof. Probably the appeals by the claimants below would have had this effect, but as this Court has said that an appellee can only contend for the affirmance of the decree below, it was deemed safer that the libellants should also appeal. The Stephen Morgan, 94 U. S., 599.

They now claim the right as appellants to ask this Court, if it should hold either the ship or tug not to be in fault, to reverse the decree of the Court below as to the other vessel and make it liable for the whole, instead of one-half of the damages.

If, as these libellants contend, the tug and ship were both in fault, then they ask this Court to modify the decree of the Circuit Court in so far as it makes those vessels each liable for only one-half of the damages, and to direct that any balance of the one-half decreed against either vessel which the libellants shall be unable to collect or enforce, shall be paid by the other vessel or her stipulators, to the extent of the stipulated value thereof beyond the one-half due from said vessel.

The Alabama and the Gamecock, 92 U. S., 6~~1~~5. 9
The Washington and Gregory, 9 Wall., 516.

9 Wallace 316

THE FACTS OF THE CASE.

The general facts of the case are as follows:

The work of deepening the ship channel to the harbor of Baltimore was being carried on by Col. Craighill of the United States Engineer Corps; and under contract made with him Curtis, Fobes & Co., the libellants had three dredgers, the "Craighill," the "Charles Fobes," and the "General Thom," employed in the work of excavation. On the 25th of March, 1874, Mr Hutton, an engineer in the employ of the United States and having under Col. Craighill the direction and charge of the dredges, directed them to be placed at work on the Craighill Channel, and on the afternoon of that day, under the immediate supervision and orders of McCullough, the official superintendent of the work, they were placed in the positions for work designated by Mr. Hutton. The Craighill Channel is straight and runs very nearly north and south. Its eastern edge is marked by buoys, and from that edge towards the west for a width of about 200 feet, and as to part of it about 240 feet, it had been excavated to the depth of 24 feet. It was shorter than the old natural channel, called the Main Channel, and had about four feet more water. The three dredges were located as follows: the Craighill between two and three miles above the southern end or mouth of the channel; the Charles Fobes about a quarter of a mile further north, and the General Thom about a mile and a quarter still further north. The Charles Fobes was upon the western edge of the channel, having the excavated channel of about 200 feet between her and the buoys; the General Thom was about in line with her; and the Craighill was about one "cut" or one width of the dredge further east than the two others. The Charles Fobes, (as were also the others) was held in position by three anchors, having two quarter lines, one from each side, running out towards the front about 600 feet, at an angle of about 40 or 45 degrees, and also a stern line running out about 400 feet. (See diagram, page 300 of Record.)

The tug took the ship in tow off Annapolis, with a hawser about 300 feet long, the ship drawing about 14 feet. There was a good breeze from the east of south; the ship had her sails set; and the speed of the vessels was 8 or 10 miles an hour. The captain of the tug determined to go up by the Craighill Channel. The tug and ship when they reached the dredge Craighill, instead of passing to the east of her in the excavated channel, passed to the west of her at the distance of not more than 35 or 40 feet, and when they got to the Charles Fobes the tug passed to the west of her at the distance of 30 or 35 feet, but the ship ran into the dredge, striking her on her front and perpendicularly, at a point 8 or 10 feet from her starboard side. The blow was so violent that the ship broke and cut through the heavy timbers of the dredge, running into her some 5 feet, and remaining for a time wedged there. The water poured rapidly into the dredge thus broken and pressed down by the ship, and it was thought advisable to cast off her quarter lines and allow her to swing around on her stern line to the west and north, so that the ship might drop out of her and her front be away from the sea. She thus swung around on her stern anchor until she again reached the channel, at a point north of that where the collision took place, and there sunk, in probably ten or fifteen minutes from the time of the collision, the ship having been previously extricated from her by the tug. The collision took place a little after ten o'clock on the night of 25th March, 1874, which was a bright moonlight night.

POINTS.

1st. *The Dredge Charles Fobes had a right to lie where she was at the time of the collision.*

Directions as to the position of the dredges were given by Mr. Hutton the Engineer to Mr. McCullough the Superintendent, (Hutton, p. 58 R.) and were by the Superintendent carried into effect. (McCullough, p. 64 R., Capt. Lord, p. 78 R.) The dredges were required to remain in their positions at night. Mr. Hutton says: "I gave orders that they should retain their positions at night, unless under some special stress of circumstances, to prevent delay and loss of time consequent upon re-locating the dredges every morning." (297 R.) McCullough states there was "a general order" that they should keep in position. "It was a general standing order." (72 and 73 R.) If the dredges were removed at night the stakes which marked the place requiring excavation would be unprotected and liable to be carried away by passing vessels. (64 R.) This would cause much delay, inconvenience and expense, and Mr. Hutton estimates that the expense of dredging is diminished 30 per cent. by keeping the dredges in position. (55 R.) It it were necessary to justify the continuance of the dredges in working position during the night by any special reasons, this evidence would abundantly shew that such a course was necessary and proper in order to complete the important work in which the government was engaged within a reasonable time and at a reasonable cost.

But in fact the position of the dredge requires no special justification. She was upon the western edge of the excavated part of the channel, with 200 feet of water of 24 feet depth to the east of her, and several hundred feet of 19 feet depth to the west

She was therefore entitled to all the protection which Courts of Admiralty extend to a vessel at anchor, and it was the duty of the vessels in motion to avoid a collision with her if it was practicable. There was abundance of space with sufficient depth of water on either side of her; it was a moonlight night and there was a fair breeze for the ship and tug, so that they could have passed the dredge safely and easily on either side. Whatever question may arise between the tug and the ship, the collision was without excuse in so far as the dredge was concerned.

The general principle, that in case of a collision between a moving vessel and a vessel at anchor, the vessel in motion must to exonerate herself from blame, show that it was not in her power to prevent the collision, is very clearly stated in the following extract from the opinion of Dr. Lushington, in the case of the Batavier. "The vessel running down the other" (which was at anchor) "must show that the accident did not arise from any fault or negligence on her own part, and for this reason, that the vessel at anchor has no means of shifting her position or avoiding the collision; and it is the duty of every vessel seeing another at anchor, whether in a proper or improper place and whether properly or improperly anchored, to avoid if it be practicable and consistent with her own safety, any collision." The Batavier, 10th Jurist., 19. For same principle, see

The Lochlibo, 3 W. Rob., 310, 319.

Cummins *vs.* Spruance, 4 Harrington, (Del.) 315, 319.

See also, 18 Howard, 89, McCreasly *vs.* Goldsmith.

Ib. 223, Steamboat New York *vs.* Rea.

21 Howard, 184, The James Gray *vs.* The John Fraser.

2d. *The Charles Fobes had her lights up and burning brightly at the time of the collision.*

This is denied in the answer of the Ship, but not in that of the Tug, which had from its leading position the best opportunity of knowing the truth. George Lord, Captain of the Dredge, proves that she had two white brilliant signal lamps open all around, one of which was forward suspended from the boom of the Dredge, and the other aft on the flagstaff; that he saw them trimmed and "put up that night by sundown;" that at 9 o'clock they were burning brightly; that after the collision they were still burning, and that the forward light was extinguished by the waves when the Dredge sunk, and the after light was taken down by the mate when the crew left the sinking Dredge. (p. 78, 79, 81, 82, 86, 87 of R) Williams the watchman of the Dredge proves that in accordance with his usual practice, as soon as he saw the Tug and Ship coming up, he looked at the lights of the Dredge, and saw them "burning bright and well." (p. 99, 100, R.) Marion Bell, engineer on the Craighill, saw the lights on the Charles Fobes "burning brightly." (p. 114, R.) The mate of the Charles Fobes also proves that they were burning. (p. 108, 109, 110.) He left the deck at half-past nine o'clock, little more than half an hour before the collision; and after the collision, as the crew were leaving the sinking dredge, took down the light which was on the flagstaff and which was still burning. The Captain of the tug saw the lights of the dredges burning, as soon as he came into the Craighill Channel. (p. 136, 142, 166, R.) Ehrman owner of the tug who was on board of her, also saw the lights of the dredge. (p. 156.)

This testimony is conclusive unless overcome by stronger contradictory proof. In fact it is met only by the negative evidence of those on board the ship. The pilot who had charge of her, says that he did not see the dredge's lights before the collision, but after the collision saw one burning. (p. 236, 238, R.) Even if the pilot was sober, which seems not to have been the case, he was not looking for the dredge's lights and in fact had no opportunity of seeing them before the collision. He says, (p. 227, R.)

that as soon as he saw the tug steer to port, he gave the order to starboard the wheel, and then the tug blew her whistle, and he sung out hard-a-starboard, and then he saw the dredge; then immediately upon giving that order, he ran aft to see if his order was obeyed, and by the time he got aft and looked at the wheel the collision took place. Obviously his not seeing the lights is sufficiently accounted for by the fact, that during the momentary opportunity he had of seeing them, his attention was engrossed by other matters. The Captain, mate, lookout and helmsman of the ship also testified. Neither the mate or the helmsman saw the dredge until after the collision. The Captain and lookout saw her a moment only before the collision, and say that they saw no lights, (p. 203, 260, R.) These four witnesses say that immediately, or five minutes after, the collison, they saw a light being hauled up or hoisted on the dredge. This under the circumstances is grossly improbable. It may be that the idea was suggested, by seeing a light on the dredge hanging from the boom, or by seeing the mate in the act of taking down the light which was suspended on the flagstaff.

This evidence on the part of the ship is clearly insufficient to overcome the proof on the part of the dredge, that her lights were up and burning.

3d. *The collision was the result of Negligence, and the want of proper skill and care on the part of those navigating the tug, and also of those navigating the ship, and both the tug and ship are responsible to the owners of the dredge for the damages occasioned by the collision.*

The case falls directly within the principle of joint liability stated by this Court in the case of Sturgis *vs.* Boyer, 24 Howard, 121, 122. The Court there says, "Cases arise undoubtedly where both the tow and the tug are jointly liable for the consequences of a collision; as when those in charge of the respective vessels jointly participate in their control and management, and the master or crew of both vessels are either deficient in skill, omit to take due care, or are guilty of negligence in their navigation." See also:

Mabey *vs.* Cooper, 14 Wall., 204, 215.

AS TO THE LIABILITY OF THE TUG.

The ship drew 14, or at most 14½ feet of water, and it was therefore not necessary that she should be taken through the Craighill Channel. The old or main channel has a depth of 20½ feet, and the Craighill Channel was made principally for the passage of vessels for which 20½ feet was insufficient. The captain of the tug was guilty of gross imprudence in undertaking to tow the ship, which was two hundred and eighteen feet long, with a tow line of nearly three hundred feet, at a speed of 8 to 10 miles an hour, up the Craighill Channel at night, especially with such imperfect knowledge as he seems from his testimony to have possessed, in reference to the width of the excavated channel and the depth of water on either side of it. The imprudence was the greater because he must have known that the dredges were in position in the channel. In going down the river on the afternoon of March 25th, he admits that he saw them, but cannot recollect whether they were then in position or were being towed down. Ehrman, owner of the tug proves, that she left Baltimore about 5 o'clock, P. M. (159 R.,) Captain Lord, (282) and McCullough, (64 R.) prove that the dredges were in position before that hour so that Anderson must have seen them after they had been placed.

If the captain of the tug desired to use the Craighill Channel, he should have gone to the east of the dredges, where he could have passed them at a safe distance with a known depth of water of 24 feet. But instead of that he passed to the west of them at a distance of 35 to 40 feet, and entirely outside of the excavated channel. Both the tug and ship passed the first dredge at that distance, (the crew of the ship say it was considerably less,) and in order to pass to the west of the Charles Fobes, whose starboard side was about 40 feet west of the first dredge, it was necessary that they should go further west. This the tug did and passed to the west of the Charles Fobes at the distance of only 30 or 35 feet, (Williams, p. 101, R.) or perhaps 40 feet, and the collision then took place. There was a depth of

19 or 20 feet of water for several hundred feet to the west of the dredge. (Hutton, p. 56; McCullough, p. 67-8: Almy, 179, 180, R.) and there was nothing to justify the captain of the tug in passing with such a tow, and at a speed of from 8 to 10 miles an hour, in such dangerous proximity to the dredge. It was an unnecessary risk and was highly imprudent.

The captain of the tug endeavors to account for his going to the west of the dredges, by the alleged fact that the Craighill, the first dredge which he passed blew two whistles. Those on board of the Craighill swear that no whistle was blown on board of her. No proof was offered of any custom, that dredges at anchor, should by whistles direct an approaching vessel on which side to pass, except what was said by Captain Anderson himself. The existence of such a custom was positively disproved by Captain Shaw, an experienced pilot and tug boat captain, (p. 189, R.) Such a custom would be too unreasonable to obtain the sanction of a Court of Admiralty, and indeed its unreasonableness is so apparent as to make its existence altogether improbable.

All that Captain Anderson seems from his own testimony, to have known in reference to the Craighill Channel was, that by steering by a certain range of lights he could take the ship up safely. He seems to have had no knowledge as to how far the channel had been excavated to the west of the buoys, or as to the depth of the water upon its western edge, at that part of it where the dredge, Charles Fobes was anchored, and he was therefore not competent to decide understandingly, on the propriety of taking the ship up the Craighill Channel, or to discharge that duty after he had assumed it.

The Margaret, 94 U. S., 497.

After the collision the captain and crew of the dredge could not prevent her sinking. The captain at once had her quarter lines cast off, so that she might swing around to the west and north in the hope that the ship would then drop out of her, and that with her head away from the wind the water would not flow in so rapidly (79, 80, 91 and 104, R.) She swung around accordingly on her stern line, until she sunk in the channel, at a point 800 or 1000 feet north of her original position, (66 R.,) with her head to the North. (81, 91, 92, 95, 287, 290 R.) The hole made in the dredge by the ship was two feet eight inches wide at top, and two feet at the bottom, and two feet and a half of it were under water. (89 R.) The fires on the dredge were banked, with steam enough on to blow the whistle, but not enough to work the pump. Orders were at once given to spread the fires, which was done, (79-94 R.,) but it soon became evident that the water would reach the fires before steam could be gotten up, and that the mass of water rushing in was too great, to be materially diminished by the small pump of the dredge, even if it could have been started. The water reached the fires in less than five minutes and the dredge sunk in about ten minutes after the collision. (80, 100 R.) The captain and crew left the dredge, only when the water had reached her deck, and just before she sunk.

The captain of the dredge promptly hailed the tug, and informed her captain that the dredge was sinking, and asked him to tow her into shoal water, but the captain of the tug said he could not leave the ship. (79 R.) After the captain and crew of the dredge had left her in the small boat, the captain of the tug hailed them, and offered assistance if they would give him a line from the dredge. The captain of the dredge replied "that she was past that," and he adds "when these words were passed from me, the dredge went under then." (96 R.)

AS TO LIABILITY OF THE SHIP.

Williams, the watchman on the dredge, and Anderson and Ehrman on the tug testify, that when the tug had nearly or quite got abreast of the bows of the dredge, the ship made a sheer to the eastward (pp. 98, 127, 152 R.) instead of following the tug. The evidence of the watchman, who being on a stationary object, could speak with the most certainty, is very clear on this point. The helmsman of the ship denies that after passing the first dredge the helm was ever put to port, and the pilot says the ship did not fall off to starboard. Whether the ship improperly bore off to the eastward, (perhaps mistaking the lights of the dredge for those of the tug and steering for them,)or whether she failed to watch vigilantly and follow the course of the tug, she was equally at fault; but the weight of evidence seems to prove the sheer, and the attention of the Court is therefore called to it.

It appears from the testimony of the captain of the ship (206 R.) and from the ship's log, (293 R.) that immediately after passing the first dredge the pilot gave the order to take in the ship's topsails; and the mate of the ship told Captain Anderson, (141 R.,) that no one was on the lookout on board the ship, that all hands were clewing the mizzen topsail. The ship's log also states that while they were taking in the topsails, the captain seeing that the pilot paid no attention to the rapidly repeated whistles of the tug, went forward to see what it indicated and there saw a black object (the dredge) at a short distance ahead, and gave the order to put the helm a-starboard. This order was at once obeyed, but it was too late to avoid the collision.

The pilot also says that he gave the order hard-a-starboard, (apparently at or about the same time that the order was given by the captain,) and immediately ran aft to see if his order was obeyed, but by the time he had looked at the helm the collision took place. (227 R.)

The knowledge of the close proximity of the ship to the dredge came to the captain and the pilot suddenly, at a very late moment, and even then upon their own observation. The dredge, although her lights were burning brightly, and the night was clear and moonlight, was not seen by those navigating the ship, until the distance between them was so short as to make it almost if not quite impossible to avoid the collision. Manifestly there was no proper and sufficient lookout on board the ship.

The mistake or negligence whichever it may have been, in the steering of the ship, seems to have occurred when the attention of those having charge of her navigation was occupied by the taking in of the topsails; and when their attention was recalled to the position of the ship by the whistles from the tug, they found that instead of following the tug, she was heading towards the dredge. What the position of the ship really was may be safely inferred from the fact, that with her helm at once put hard-a-starboard, she struck the front of the dredge very nearly if not exactly at a right angle. (80, 101, 110 R.)

Those on board the ship say that the tug, just before reaching the dredge made a sudden rank sheer to the west, but this is contradicted by Captain Anderson, and Ehrman on the tug, and seems to be clearly disproved by the watchman on the dredge, (101, R.) who says that the tug came straight along and made no change of course, but that he saw the sheer of the ship.

After the collision the captain and mate of the ship stated that the pilot was drunk, (295, R.) and it is so stated in the ship's log, (294, 304, R.) and he was removed by the Board of Examiners because of his intoxication that night. (269, R.) He certainly does not seem, to have been in a condition, to exercise due skill and care in the management of the ship, and his inability to maintain a watchful supervision, and to exercise good judgment in her navigation, may account in large part for the negligence or mistake which caused the collision.

But whatever may have been the cause or the precise character and extent of the mismanagement on board the ship, it was sufficient to lead to the collision, when if she had followed the tug as was her duty, no collision would have taken place. The burthen is upon the ship to establish, by clear and satisfactory proof, that it was not practicable for her to avoid the collision, and this she has altogether failed to do.

During the trial of this cause in the District Court, it was suggested, that the sheer of the ship might have been caused, by her striking the starboard quarter line of the dredge, but no proof was offered of such an occurrence, and in the progress of the trial the evidence made it clear that the suggestion was not well founded. Those on board the ship testified that she never fell off to starboard at all, so that they not only do not testify that she struck the line, but prove that she did not strike it, so as to produce a sheer to starboard.

Further, the position of the ship and the angle at which the quarter lines were put out, make it impossible that she could have struck the starboard line. The lines were about 630 feet in length, and were run out at an angle of about 45 degrees. This is proved by Mr. Hutton, the Government Engineer, and Mr. McCullough, the Superintendent, (298, R.,) by Captain Albott, (290, R.) Captain Shaw, (285, R.) Captain Cooper, (266, R.) Captain Lord, (219, 220, R.) The first dredge, the Craighill was 43 feet to the east of the Charles Fobes, and the tug and ship both passed the Craighill at the distance of about 35 feet. Thence the course of the tug, which until the sheer was followed by the ship, brought the former to a point only 30 or 35 feet west of the bow of the Fobes. When that point was reached by the tug, the sheer of the ship took place, she being about 300 feet behind the tug. The tug had not then reached, or was at most in the act of passing the quarter line, and manifestly the ship which was 300 feet behind her, could not be near that line. (101, 102, R.)

The wind was from the east of south and was quite strong, so that the western quarter line of the dredge, could not have been taut, and probably had much of its length on the bottom. (101, 285, 286, R.) The ship would have passed over it without difficulty, at the distance of 300 feet from the dredge.

EXCEPTIONS TO THE MASTER'S REPORT.

Exceptions were filed in the District Court on the part of the ship, to the Report of the Master as to the amount of damages. (50, 51, R.) These were not pressed in the Circuit Court, (opinion of Circuit Judge, 315, R.) and it is supposed will not and cannot be relied on here. We refer to them briefly.

The 1st exception was founded upon the idea that the collision took place on the night of the 26th March. In fact it took place on the 25th.

The 2nd, 4th and 5th exceptions were too general to be considered by this Court, but if considered will appear upon an examination of the evidence not to be well founded in point of fact.

The 3rd exception alleges that certain expenses were allowed to the libellants twice by the Master's Report. An examination of the Report will show, that these expenses instead of being twice allowed to the dredge, were charged to her and deducted from her estimated earnings, in the allowance made for loss of her use, while being raised and repaired.

I. NEVETT STEELE,
A. A. STROUT,
Of Counsel for Libellants.

IN THE

Supreme Court of the United States.

No. 140.

THE STEAM TUG VIRGINIA EHRMAN, &c. FREDERICK EHRMAN AND OTHERS, CLAIMANTS,

vs.

JOHN B. CURTIS, &c.

No. 147.

JOHN B. CURTIS, &c.

vs.

THE STEAM TUG VIRGINIA EHRMAN, &c., AND THE SHIP AGNESE, &c.

PHILA. BAR ASSOCIAT

No. 305.

THE SHIP AGNESE, &c.

vs.

JOHN B. CURTIS, &c.

BRIEF ON BEHALF OF ALLESSANDRI & OTHERS, CLAIMANTS OF THE SHIP AGNESE, in the Three Cases.

CHARLES MARSHALL,
WILLIAM A. FISHER,
For Claimants of the Agnese.

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No. 140.

THE STEAM TUG VIRGINIA EHRMAN, &c. FREDERICK EHRMAN AND OTHERS, CLAIMANTS,

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No. 147.

JOHN B. CURTIS, &c.

vs.

THE STEAM TUG VIRGINIA EHRMAN, &c., AND THE SHIP AGNESE, &c.

No. 305.

THE SHIP AGNESE, &c.

vs.

JOHN B. CURTIS, &c.

BRIEF ON BEHALF OF ALLESSANDRI & OTHERS, CLAIMANTS OF THE SHIP AGNESE, in the Three Cases.

The libel in this case was filed in the District Court for the Maryland District, on the 28th March, 1874, by John B. Curtis, Charles Fobes and George C. Fobes, co-partners, under the name of Curtis, Fobes & Co., against the Steam Tug Virginia

Ehrman and the Ship Agnese, to recover damages for injury to a Steam Dredge belonging to the libellants, which was run into and sunk while lying at anchor on the night of the 25th March, 1874, in Chesapeake Bay, by the Ship Agnese which was coming up the bay to Baltimore in tow of the Tug Ehrman.

The Dredge was employed under a contract with the Government, in deepening and widening what is known as the Craighill Channel, one of the approaches to Baltimore, and it is alleged, was lying on the night in question at her proper berth, on the western edge of the channel, carefully and skilfully anchored, with three anchors set to keep her in a suitable position to prosecute her work and with two signal lights burning brightly.

It is charged that while she was so lying, the Agnese being in tow of the Ehrman, by the neglect and want of skill on the part of the masters and crews of the Ship and Tug, ran into and sunk the Dredge. It is charged that the Agnese was unskilfully navigated, and that the Ehrman was in fault in sailing with her tow dangerously near to the Dredge, notwithstanding there was plenty of deep water on either side into which she might have taken the ship without danger.

The answer of the claimants of the Tug alleges that on the night of March 24th, she took the Agnese in tow off Annapolis to bring her up to Baltimore. That the Master of the Tug directed the Ship to take in all sails but her topsails, and that the towing hawser was passed over the starboard bow of the Ship.

The Master of the Tug determined to go through the Craighill Channel, and so informed the pilot on board the Ship.

That about two miles above the southern end of the Craighill Channel, between 9 and 10 o'clock at night, the night being clear and moonlight, with a stiff wind from the south, and directly aft of the Ship, which had her topsails set and drawing, and was under a headway of from eight to ten knots an hour, those on the Tug discovered three dredging machines lying in a row midway of the channel, and about two hundred yards apart.

It is alleged that when the Tug came within a proper distance of the first of the machines, she whistled to notify those on board the Dredge, and *was answered by two whistles* from said machine, which it is alleged, *was a direction to the Tug to pass to the westward of the Dredge.*

That accordingly the Tug did pass about *fifty feet to the westward of said first two machines*, and *as she passed the second*, she whistled to warn the Ship that she also might take proper precaution in passing.

That the Ship passed the first machine, and might have passed the second, if she had followed the course indicated by the Tug, but that she negligently and improperly deviated to the eastward and struck the Dredge.

It is alleged, that the collision was caused, *first*, by the fault of the dredging machines in anchoring in the middle of the channel, and in the range of the lights fixed for the guidance of ships using the channel, instead of being anchored as they could have been, on or near the edge of the channel, which is only about three hundred feet wide at that part, and *secondly*, by the gross mismanagement of the Ship Agnese, due to the drunkenness incompetency and negligence of the pilot in charge of her.

The answer of Allessandri and others, claimants of the Ship Agnese, denies that she was improperly or negligently steered, or that there was any neglect on the part of her Master or Crew.

It alleges that she took a licensed pilot as by law she was compelled to do, and employed the Ehrman to tow her to Baltimore. That the Ship was attached to the Tug by a hawser of about fifty fathoms, and that she followed the direction and was governed by the movements of the Tug.

That the Master Officers and Crew of the Ship, were entirely ignorant of the channels leading to Baltimore, and assumed no control or direction over the course of the ship, but closely followed the Tug.

That when near Seven-Foot Knoll and in the middle of the channel, those on the ship observed that they were passing a dredging machine, and that they ran very near it. That a little further up and in rear of the first machine, there lay about midway of the channel, *but a little nearer to the western side*, a second Dredge, which had been partially hidden by the first, and which had no proper lights or lookout, as claimants believed.

That the Tug continuing her course after passing the first Dredge would have struck the second, had she not starboarded her helm, which she did just so as to clear the machine, but the Ship being unable to change her course so quickly, it was impossible to prevent her from striking the Dredge.

A great deal of testimony was taken in the District Court, which dismissed the libel as to the Tug Ehrman, and decreed against the Agnese, referring the case to a master to ascertain the amount of the loss. Record p. 8

The master reported the damages to be $24,184.57, and the Court passed a final decree on the 27th October 1874, to sell the Ship to pay that sum and costs. Record p. 51.

From these decrees the libellants and the claimants of the Ship both appealed to the Circuit Court. The decree of the latter reversed both decrees of the District Court, so far as that Court had discharged the Tug, affirmed the decree as to the amount of loss sustained by the libellants, but held that the Tug and Ship were both in fault, and decreed that each should bear half the loss.

The opinion of the Judge of the Circuit Court is on page 313, 314 and 315, and the decree immediately follows.

From this decree, each of the three parties appealed to this Court.

On behalf of the claimants of the Agnese, it will be contended,

First. That the Dredge is responsible for the accident by reason of the place and manner of her ancherage.

Second. That in any case if the Ship be held liable at all, the decree of the Circuit Court, dividing the loss between her and the Tug, should be affirmed.

To state the particular reasons relied upon in support of the first and second of the above propositions, it is necessary to present certain facts about which there is no dispute.

Ascending the Chesapeake Bay and approaching the mouth of the Patapsco River, there are three channels. The most westerly is called the Swash Channel, which is not deep enough for vessels drawing more than 13 feet, next comes the Craighill, of which we will presently speak more particularly, and furthest towards the east is what is known as the old ship channel, or North Point Channel, which has water enough for vessels drawing 18 feet and even more, with a width of from two to three hundred yards of that depth. Landis 301

By way of the last mentioned channel, the distance to Baltimore is from four to five miles greater than by the Craighill.

The latter channel is about six miles long, and runs nearly due north and south.

It is intended to be four hundred feet wide, with an average depth of twenty-four feet at mean tide.

But at the time of the collision, and at the place where it occurred the channel had in fact been excavated to a depth of twenty-four feet, only for a width of *one hundred and ninety seven feet* (197) extending from its extreme eastern line westwardly. The eastern side was marked by buoys. What the depth of water was to the westward of the excavated part of the channel is a disputed question. 63 67 69

On the 25th March these dredges were towed down from Baltimore to go to work next day to excavate westwardly, so as to widen the excavation to four hundred feet as proposed. These Dredges all belonged to libellants. The first one was anchored about two miles above the south end or entrance of the channel, and on the extreme western side of the excavated part of it. This Dredge was called the "Craighill."

The second was called the "Charles Fobes," and anchored about a quarter of a mile above the Craighill, and at a point where for a distance of about 1000 yards north of her, the channel had been excavated to the width of 240 feet, while south of her, it was only excavated to the width of 197 feet from the buoys on the east side.

The Dredge was 43 feet wide, so that her port side was 197 feet from the buoys with 24 feet of water between her and the line of buoys, and she was to work down the channel next day, excavating a space equal to her own width, so as to widen the excavated part of the channel in front of her to the full width of 240 feet (197 + 43) from the line of buoys.

The Craighill lay on the western edge of the 197 feet of excavated channel, so that the Charles Fobes did not lie immediately behind and in a line with her, but lay her own width (43 feet) further west.

The third Dredge called the "General Thom" anchored about a mile and a quarter north of the Fobes, and in a line with her.

A rough diagram at page 300 of the Record, proved by the witness McCullough (p. 298,) shows the relative positions of the Dredges.

See testimony of McCullough in District Court, p. 63, 67, and of Hutton, p. 55, 62.

The Charles Fobes had three anchors out. Two extending from the stern of the Dredge, carried forward and laid over the forward end of the Dredge, from which they extended out on each side a distance of about 600 feet. Cap. Lord, p. 78, 84, 85. The third anchor went out from the stern about 400 feet.

It will be seen from the testimony of Cap. Lord, p. 84, 85, that when he was first examined, he stated that the two forward anchor lines made an angle with each other of less than 20 or 25 degrees, and he gave a reason why they did not diverge more than that. See p. 85.

Williams the watchman also testified that Captain Lord correctly described the way the Dredge was anchored.

See Williams cross-examination, p. 100.

It is true that at a much later stage of the case, Lord changed his testimony in this particular. p. 282, 283, 284. But that was after one of the theories of the defence had been developed.

The lines of the two forward anchors of the Dredge covered the entire channel. On her port or east side the anchor was beyond the buoys, and that line extended acorss the excavated part of the channel and on her starboard or west side, the anchor was on the flats, and the hawser extended across the deep water on that side.

Cap. Lord recalled, p. 283.
Hutton deposition, p. 297.

The Dredge therefor lay head down the stream, with her anchor lines extended on each side about 600 feet, at an angle with each other of about 20 degrees according to Lord and Williams, or at 90 degrees according to Lord when recalled.

The water to the westward of the Dredge for several hundred feet is proved by a great preponderance of the evidence, to have been 17 or 18 feet deep at the place where the Dredge Fobes lay, for a considerable distance above and below her, and extending two hundred yards or more to the westward of her position.

Cap. Almy, p. 178-181.
Hutton, p. 56, 57, 297.
Cap. Joshua Shaw, witness for the Tug, 184, 185.
McCullough, p. 67, 68.

Under these circumstances, the Tug having the Agnese in tow approached the first Dredge, the Craighill, and passed to the westward of her at a distance of 35 to 40 feet, though at a much less distance according to the testimony of the men on the Ship.

Cap. Fields, p. 111, 112, 35 to 40 feet.
Marion Bell, p. 114, 35 to 40 feet.
Cap. Podesta, p. 201.
Vide Achille, p. 263, 20 feet.
Milobeck, p. 259, 18 or 20 feet.

Williams p 98

Cap. Anderson of the Tug says it was 40 or 50 feet, may have been more, may have been less, 126.

As the Tug approached the first Dredge (Craighill) she put her helm a little to starboard to clear that Dredge. When within 20 or 30 feet of her she steadied on that course, and did not change her course again until the collision.

Anderson, p. 167, 168.

It is apparent, if this be true, that the Fobes lying her own width to the westward of the Craighill, the Tug, unless she made some change in her course, would have struck the Fobes, or passed within a few feet of her. Williams p 98

In this connection, attention is called to the allegation in the Tug's answer, which states that the three Dredges were nearly in a line with each other in the channel. If Cap. Anderson had observed that the Fobes was to the westward of the Craighill, he would hardly have made such an answer, and we infer that when he passed the first Dredge on the night of the collision, he supposed the two Dredges to be on a line, and steered accordingly as he testified.

The Tug and Ship were going at the rate of 8 or 10 knots.

Anderson, p. 127.

Most of this speed was due to the Tug, because the Ship only had her fore and main topsails set, and with the wind that night, would not have made more than two or three knots.

Adams, p. 223.
Anderson, p. 126, 130.
Podesta, p. 199.
Vardy, p. 254.

The distance between the Fobes and Craighill, was a quarter of a mile.

McCullough, pp. 69, 70.

In about two minutes therefrom after passing the Craighill at that speed, the Tug would reach the Fobes.

AS TO THE LIABILITY OF THE TUG.

We submit that by the proof in the case, and by the Tug's answer, it appears that her Master selected the Craighill Channel, that when he selected that channel, he was aware that the Dredges were already in it, having seen them as he went down from Baltimore that afternoon.

Cap. Vardy, p. 257.
Cap. Cooper, pp. 264, 265.
Anderson, p. 126, 136. 146

He was bound to know the channel, and yet it appears that he was entirely ignorant of it, and that he sailed in such dangerous proximity to the Dredge because he was ignorant of the channel. He thought that the Dredge was in the middle of the excavated part of the channel, when in fact, all the excavated channel lay to the eastward of the Dredge. He thought it unsafe to go further west than he did, because he supposed he would get out of the excavated channel, and did not know the depth of the water outside.

His testimony at pages ~~148~~ 138, 139, 143, 144, 146 147 and 148, shews conclusively that he was absolutely ignorant of the channel, and of the depth of the adjacent water.

Now without at present discussing the cause of the collision whether it was by reason of a sheer of the Ship as alleged, or by her striking the starboard anchor line of the Dredge, or by her being unable to change her course, which she had when she passed the first Dredge, soon enough to clear the second, we submit that to take her in such proximity to the Dredge, was a grave fault on the part of the Tug. It aggravated the consequences of bad steering, or of a sudden yaw or sheer of the Ship, and in this case, contributed directly to the collision.

Fretz vs Bull 12 How 466
The Granite State 3 Wall 313
The Express 1 Blatchford 365

The Margaret, 94 U. S., 497.
The Maybee & Cooper, 14 Wal., 204.
Owners of the Jas. Gray *vs.* Owners of John Fraser, 21 How., 191.

the third dredge 210
The tug took the ship a good distance from ^

It is well known, and is proved in this case by several experts that all ships are liable to yaw, especially when they have the wind nearly directly abaft.

Cap. Jones, p. 191.
Echberger, p. 193. 194
Adams, p. 235.
Hubbard 196

But there is strong proof that the Tug itself did not see the second Dredge until after she had passed the first, and was within two minutes sail of her.

The Tug had no lookout proper. 12 How 443 10 How 557

Her captain was in the wheelhouse attending to the wheel.

We have shown that according to all the testimony except Cap. Anderson's, the course he was on when he passed the first Dredge, would have brought him on or very nearly on the second Dredge. Podesta 206

Now it is testified by the Pilot in the Ship, by the Captain and Chief Mate and Lookout, that just before the collision, the Tug took a sudden sheer to westward.

Podesta, pp. 201, 202.
Adams, p. 226.
Guilio Bozzio, p. 245.
Milobeck, pp. 259, 260.
Fosco, p. 274.

The evidence of Lord, Captain of the Dredge, strongly corroborates this testimony. He says that when he was aroused by the watchman, he stood in the door of the stateroom and was there when the collision took place. He was knocked across the saloon by the concussion, and as soon as he got up, walked forward on the port side of the Dredge, and saw the Ship already on the Dredge and nearly at the same moment, saw the Tug some 200 or 300 yards to the westward and nearly abreast of the Dredge.

Cap. Lord, p. 82, 90, and 91.

It is impossible that she could have gone off so far to westward, unless just as she approached the second Dredge, she made a sharp change in her course, as the witnesses on the ship say she did, and there was no reason why she should make such an abrupt change in her course, unless it was because she suddenly found herself going upon or dangerously near the Dredge.

There is a good deal of evidence by experts, that it was dangerous for the Tug to take the Ship so near the Dredge.

Williams, the watch on the Dredge, though not an expert, expresses some doubt whether the Ship would have cleared the Dredge, even if she had followed the Tug. He says it would have been close work.

Williams, p. 98.
Captain Almy, p. 179.
" Vardy, p. 253.
" Griggs, p. 306.
" Johnson, p. 311.

As to the alleged sheer of the Agnese, we think the sheer of the Tug above referred to, explains the supposed sheer of the Ship.

The watchman on the Dredge saw the Tug coming nearly down upon him, with a very large and high Ship in tow. If the Tug suddenly turned out of her way, and went sharply to the westward, it would give the Ship, which would have continued on her course for a time, the appearance of going to the eastward.

But there is evidence that the Ship did not sheer at all.

The Captain of the Tug and Mr. Ehrman, testify that there was a sudden and sharp sheer which made them think the Ship would pass to the eastward of the Dredge.

Williams, the watchman, also says that the sheer took place when the Ship was about her length, or a length and a half from the Dredge.

Williams, p. 101, 106. 107
Anderson, p. 127.

Now at the rate the Ship was going, it would take her a little more than a third of a minute to go her own length, or to go 300 feet. If therefore she was seen to take such a rank sheer to starboard when only the length of the tow line, (300) feet from the Dredge, she could not possibly have recovered from that sheer, and *been going to port at the moment of collision.* Anderson says that the change in the Ship's course by the sheer, was from 1 to 2½ points. Anderson recalled, p. 196. Yet, notwithstanding all this, there is evidence in the Record, *that at the moment of collision*, the Ship was actually *going to port.*

The Dredge was 43 feet wide at the end, and the hole made by the Ship was only 8 feet from her starboard side.

Captain Lord, p. 89.

It will be remembered that the Fobes lay her own width to westward of the Craighill, so that if the Ship passed about 30 feet west of the Craighill as proved, her course would have taken her towards the starboard side of the Fobes where she struck, a fact that indicates that there could not have been such a sheer as the witnesses describe.

But the immediate effect of the blow was to throw the Dredge, with the ship sticking in her rapidly to the *westward.* In this all the witnesses agree. The wind was nearly from the southward, and the rapid drifting of Dredge and Ship immediately after the collision to the westward, and the entire absence of any proof of a movement of the Dredge *eastward* as a consequence of the collision, demonstrate that the direction of the impulse given to the Dredge by the blow was to the *westward*, and consequently that the Ship at the moment of impact was going to port.

Again, when the Captain of the Dredge was aroused by the alarm of the watchman, he went to the door of the state-room, and was standing in the door at the moment of the collision, the effect of which was to throw him entirely across the dining-room, a distance of 10 feet.

Lord, p. 78, 88.

The Record does not show positively on which side of the saloon he was standing when the Ship struck, but it does show that when he came out of the saloon after he had been knocked across it, he came out of the door on the *port side.*

Lord, p. 90.

He was the first to come on deck p 103

There were two doors leading out of the saloon, one on each side.

Lord, p. 88.

We think the inference a fair one that Cap. Lord was thrown by the collision across the saloon from the starboard *to the port side,* and if so, the Ship herself must have been going to port at the time of collision.

This is confirmed by the positive evidence of every man on board the Ship who had opportunity to know, that she never changed her course after passing the first Dredge but steadily followed the Tug's lights, until the sudden turn of the Tug to port disclosed the second Dredge, when the Ship's helm was put hard-a-starboard.

Podesta, p. 202.
Adams, p. 227.
Giulio Bozzio, p. 245.
Milobeck, p. 260.
Fosco, p. 274.

We submit that these considerations establish that in point of act the Ship did not take a sheer at all, but that she carefully followed the Tug's lights, until the latter brought her so nearly upon the second Dredge that collision became inevitable.

AS TO THE FAULT OF THE DREDGE.

The three Dredges all belonging to the libellants, were anchored one behind the other immediately in the range of the lights fixed for the guidance of vessels navigating that channel at night. It would have been easy for them to have anchored to the westward, or drawn out to the westward so as to leave the line of the lights clear during the night, and to have pulled back to the proper position for work in the day.

McCullough, p. 72.
Garret, p. 189.

There is evidence in the Record that after the collision, the other Dredges did in fact draw out of the channel at night and on Sunday.

Ehrman, p. 173, 174.
Ripley, p. 175, 176.
Williams 105

It is for the Court to say, whether the original testimony of Lord and Williams, that the anchor lines of the Fobes, made an angle with each other less than 20 degrees, or the subsequent correction of that testimony by Lord alone, that the angle was 90 degrees, shall be adopted.

If the former, it is manifest that the Dredge would be as it were at the bottom of a funnel, the elastic sides of which would cause approaching vessels to tend towards the Dredge. Nor if the direction of the lines were such as first described by the witnesses, would the slacking of the line as the Tug came near the Dredge, prevent the Ship which drew so much water, from striking the line at a distance from the Dredge, before the slacking took place.

The evidence of experts shows that this might h
without any shock perceptible to those on the Ship.

Landers, p. 212.

She struck the Craighill's line

If there was such a sheer as is claimed in this c
tion of the anchor lines of the Dredge, making an
axis of not more than 10 degrees, might reasonabl
it.

But if the sheer occurred in fact, whether by striking the line, or by striking something at the bottom, (which Hutton proves was very soft at this place,) or even by an error in steering, (of which there is no proof,) or by yawing of the Ship, we submit that the collision would not have occurred had the Ship not been taken in such dangerous proximity to the Dredge.

CHARLES MARSHALL,
WILLIAM A. FISHER,
For Claimants of the Agnese.